

ISLE OF CAPRI CASINOS, INC.
DEFERRED BONUS PLAN
Code Section 409A Compliance Amendment

Whereas, Isle of Capri Casinos, Inc., a corporation organized and existing under the laws of the State of Delaware (the "Company"), maintains the Deferred Bonus Plan, which plan was first established as of April 26, 1998, and subsequently amended from time to time (the "Plan");

Whereas, such Plan now constitutes a "deferred compensation" arrangement within the meaning of Section 409A of the Internal Revenue Code of 1986, as amended, and must be amended to comply with the final regulations promulgated thereunder;

Now, Therefore, the Plan shall be amended as follows, such amendment to be effective as of January 1, 2009, or at the earlier time or times set forth below.

1. Bonus Deferrals and Payments:

Section 2 of the Plan shall be amended and restated in its entirety as follows:

"2. The Deferred Bonus:

- (a) No portion of any Cash Bonus shall be subject to deferral hereunder.
- (b) Any Cash Bonus previously deferred hereunder (a "Deferred Bonus") shall be paid in the form of a single-sum upon the earlier of:
 - i. An Eligible Employee's death or Disability;
 - ii. The fifth anniversary of the last day of the Company's fiscal year immediately preceding the Bonus Award Date; or
 - iii. The occurrence of an Extraordinary Transaction, provided that if such transaction does not also constitute a "change in control" within the meaning of Code Section 409A and the regulations promulgated hereunder, payment shall be made upon the earlier of (x) the occurrence of a Separation From Service in connection with such transaction or during the 24-month period thereafter, or (y) as otherwise provided herein.
- (c) Notwithstanding the generality of the foregoing, effective for any payment made on or after January 1, 2005, if an Eligible Employee is a Specified Employee as of his or her Separation Date, the commencement of any payment made on account of his or her Separation From Service, as determined in accordance with Code Section 409A, shall be delayed until the first business day of the seventh whole calendar month following his or her Separation Date. In the event of any delay required hereunder, payment shall be made without liability for interest or loss of investment opportunity thereon."

2. Compliance Definitions:

Notwithstanding any provision of the Plan to the contrary, the following Section 16 shall be added to the Plan to read in its entirety as follows, effective as of January 1, 2005:

“16. **Compliance Definitions.** Capitalized terms used herein shall have the meanings ascribed to them below; in the event of a conflict between a definition included herein and the same or a similar term defined elsewhere in the Plan, the terms of this Section 16 shall govern.

(a) The term “**Disability**” shall mean that an Eligible Employee, by reason of a medically determinable physical or mental impairment that can be expected to result in death or last for a continuous period of not less than 12 months, (i) has been receiving income replacement benefits for a period of not less than three months under a separate long-term disability plan or policy maintained by the Company or an Affiliate, or (ii) is unable to engage in any substantial gainful employment.

(b) The term “**Specified Employee**” shall be determined in accordance with Code Section 409A and shall generally mean that an Eligible Employee is a ‘key employee’ of the Company or an Affiliate within the meaning of Code Section 416(i), (ii) or (iii), but determined without regard to paragraph (i)(5) thereof, as of his or her Separation Date. An Eligible Employee who satisfies such requirement as of a December 31st shall be considered a Specified Employee hereunder during the 12-month period commencing on the immediately following April 1st.

(c) The term “**Separation Date**” or “**Separation From Service**” shall mean the later of the date on which (a) an Eligible Employee’s employment with the Company and its affiliates ceases, or (b) the Company and such Eligible Employee reasonably anticipate that the Eligible Employee will perform no further services for the Company and its affiliates, whether as a common law employee or independent contractor. Notwithstanding the foregoing, an Eligible Employee may be deemed to incur a Separation Date if he or she continues to provide services to the Company or an affiliate, provided such services are not more than 20% of the average level of services performed by such Eligible Employee, whether as an employee or independent contractor, during the immediately preceding 36-month period.”

This 409 Compliance Amendment was adopted this 22nd day of December, 2008, to be effective as of the date or dates set forth herein.

Isle of Capri Casinos, Inc.:

By: /s/ R. Ronald Burgess

Its: SVP, Human Resources

Date: 12/22/08

**THE EXECUTIVE NONQUALIFIED EXCESS PLAN
PLAN DOCUMENT**

THE EXECUTIVE NONQUALIFIED EXCESS PLAN

Section 1. Purpose:

By execution of the Adoption Agreement, the Employer has adopted the Plan set forth herein, and in the Adoption Agreement, to provide a means by which certain management Employees or Independent Contractors of the Employer may elect to defer receipt of current Compensation from the Employer in order to provide retirement and other benefits on behalf of such Employees or Independent Contractors of the Employer, as selected in the Adoption Agreement. The Plan is intended to be a nonqualified deferred compensation plan that complies with the provisions of Section 409A of the Internal Revenue Code (the "Code"). The Plan is also intended to be an unfunded plan maintained primarily for the purpose of providing deferred compensation benefits for a select group of management or highly compensated employees under Sections 201(2), 301(a)(3) and 401(a)(1) of the Employee Retirement Income Security Act of 1974 ("ERISA") and independent contractors. Notwithstanding any other provision of this Plan, this Plan shall be interpreted, operated and administered in a manner consistent with these intentions.

Section 2. Definitions:

As used in the Plan, including this Section 2, references to one gender shall include the other, unless otherwise indicated by the context:

2.1 "Active Participant" means, with respect to any day or date, a Participant who is in Service on such day or date; provided, that a Participant shall cease to be an Active Participant (i) immediately upon a determination by the Committee that the Participant has ceased to be an Employee or Independent Contractor, or (ii) at the end

of the Plan Year that the Committee determines the Participant no longer meets the eligibility requirements of the Plan.

2.2 **"Adoption Agreement"** means the written agreement pursuant to which the Employer adopts the Plan. The Adoption Agreement is a part of the Plan as applied to the Employer.

2.3 **"Beneficiary"** means the person, persons, entity or entities designated or determined pursuant to the provisions of Section 13 of the Plan.

2.4 **"Board"** means the Board of Directors of the Company, if the Company is a corporation. If the Company is not a corporation, "Board" shall mean the Company.

2.5 **"Change in Control Event"** means an event described in Section 409A(a)(2)(A)(v) of the Code (or any successor provision thereto) and the regulations thereunder.

2.6 **"Committee"** means the persons or entity designated in the Adoption Agreement to administer the Plan. If the Committee designated in the Adoption Agreement is unable to serve, the Employer shall satisfy the duties of the Committee provided for in Section 9.

2.7 **"Company"** means the company designated in the Adoption Agreement as such.

2.8 **"Compensation"** shall have the meaning designated in the Adoption Agreement.

2.9 **"Crediting Date"** means the date designated in the Adoption Agreement for crediting the amount of any Participant Deferral Credits to the Deferred Compensation Account of a Participant. Employer Credits may be credited to the

Deferred Compensation Account of a Participant on any day that securities are traded on a national securities exchange.

2.10 "Deferred Compensation Account" means the account maintained with respect to each Participant under the Plan. The Deferred Compensation Account shall be credited with Participant Deferral Credits and Employer Credits, credited or debited for deemed investment gains or losses, and adjusted for payments in accordance with the rules and elections in effect under Section 8. The Deferred Compensation Account of a Participant shall include any In-Service or Education Account of the Participant, if applicable.

2.11 "Disabled" means Disabled within the meaning of Section 409A of the Code and the regulations thereunder. Generally, this means that the Participant is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or can be expected to last for a continuous period of not less than 12 months, or is, by reason of any medically determinable physical or mental impairment which can be expected to result in death or can be expected to last for a continuous period of not less than 12 months, receiving income replacement benefits for a period of not less than three months under an accident and health plan covering Employees of the Employer.

2.12 "Education Account" is an In-Service Account which will be used by the Participant for educational purposes.

2.13 "Effective Date" shall be the date designated in the Adoption Agreement.

2.14 "Employee" means an individual in the Service of the Employer if the relationship between the individual and the Employer is the legal relationship of

employer and employee. An individual shall cease to be an Employee upon the Employee's separation from Service.

2.15 **"Employer"** means the Company, as identified in the Adoption Agreement, and any Participating Employer which adopts this Plan. An Employer may be a corporation, a limited liability company, a partnership or sole proprietorship.

2.16 **"Employer Credits"** means the amounts credited to the Participant's Deferred Compensation Account by the Employer pursuant to the provisions of Section 4.2.

2.17 **"Grandfathered Amounts"** means, if applicable, the amounts that were deferred under the Plan and were earned and vested within the meaning of Section 409A of the Code and regulations thereunder as of December 31, 2004. Grandfathered Amounts shall be subject to the terms designated in the Adoption Agreement.

2.18 **"Independent Contractor"** means an individual in the Service of the Employer if the relationship between the individual and the Employer is not the legal relationship of employer and employee. An individual shall cease to be an Independent Contractor upon the termination of the Independent Contractor's Service. An Independent Contractor shall include a director of the Employer who is not an Employee.

2.19 **"In-Service Account"** means a separate account to be kept for each Participant that has elected to take in-service distributions as described in Section 5.4. The In-Service Account shall be adjusted in the same manner and at the same time as the Deferred Compensation Account under Section 8 and in accordance with the rules and elections in effect under Section 8.

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2.20 **"Normal Retirement Age"** of a Participant means the age designated in the Adoption Agreement.

2.21 **"Participant"** means with respect to any Plan Year an Employee or Independent Contractor who has been designated by the Committee as a Participant and who has entered the Plan or who has a Deferred Compensation Account under the Plan; provided that if the Participant is an Employee, the individual must be a highly compensated or management employee of the Employer within the meaning of Sections 201(2), 301(a)(3) and 401(a)(1) of ERISA.

2.22 **"Participant Deferral Credits"** means the amounts credited to the Participant's Deferred Compensation Account by the Employer pursuant to the provisions of Section 4.1.

2.23 **"Participating Employer"** means any trade or business (whether or not incorporated) which adopts this Plan with the consent of the Company identified in the Adoption Agreement.

2.24 **"Participation Agreement"** means a written agreement entered into between a Participant and the Employer pursuant to the provisions of Section 4.1.

2.25 **"Performance-Based Compensation"** means compensation where the amount of, or entitlement to, the compensation is contingent on the satisfaction of preestablished organizational or individual performance criteria relating to a performance period of at least twelve months. Organizational or individual performance criteria are considered preestablished if established in writing within 90 days after the commencement of the period of service to which the criteria relates, provided that the outcome is substantially uncertain at the time the criteria are established. Performance-

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based compensation may include payments based upon subjective performance criteria as provided in regulations and administrative guidance promulgated under Section 409A of the Code.

2.26 **"Plan"** means The Executive Nonqualified Excess Plan, as herein set out and as set out in the Adoption Agreement, or as duly amended. The name of the Plan as applied to the Employer shall be designated in the Adoption Agreement.

2.27 **"Plan-Approved Domestic Relations Order"** shall mean a judgment, decree, or order (including the approval of a settlement agreement) which is:

2.27.1 Issued pursuant to a State's domestic relations law;

2.27.2 Relates to the provision of child support, alimony payments or marital property rights to a Spouse, former Spouse, child or other dependent of the Participant;

2.27.3 Creates or recognizes the right of a Spouse, former Spouse, child or other dependent of the Participant to receive all or a portion of the Participant's benefits under the Plan;

2.27.4 Requires payment to such person of their interest in the Participant's benefits in an immediate lump payment; and

2.27.5 Meets such other requirements established by the Committee.

2.28 **"Plan Year"** means the twelve-month period ending on the last day of the month designated in the Adoption Agreement; provided that the initial Plan Year may have fewer than twelve months.

2.29 **"Qualifying Distribution Event"** means (i) the Separation from Service of the Participant, (ii) the date the Participant becomes Disabled, (iii) the death of the Participant, (iv) the time specified by the Participant for an In-Service or Education Distribution, (v) a Change in Control Event, or (vi) an Unforeseeable Emergency, each to the extent provided in Section 5.

2.30 "Seniority Date" shall have the meaning designated in the Adoption Agreement.

2.31 "Separation from Service" or "Separates from Service" means a "separation from service" within the meaning of Section 409A of the Code.

2.32 "Service" means employment by the Employer as an Employee. For purposes of the Plan, the employment relationship is treated as continuing intact while the Employee is on military leave, sick leave, or other bona fide leave of absence if the period of such leave does not exceed six months, or if longer, so long as the Employee's right to reemployment is provided either by statute or contract. If the Participant is an Independent Contractor, "Service" shall mean the period during which the contractual relationship exists between the Employer and the Participant. The contractual relationship is not terminated if the Participant anticipates a renewal of the contract or becomes an Employee.

2.33 "Service Bonus" means any bonus paid to a Participant by the Employer which is not Performance-Based Compensation.

2.34 "Specified Employee" means an employee who meets the requirements for key employee treatment under Section 416(i)(1)(A)(i), (ii) or (iii) of the Code (applied in accordance with the regulations thereunder and without regard to Section 416(i)(5) of the Code) at any time during the twelve month period ending on December 31 of each year (the "identification date"). Unless binding corporate action is taken to establish different rules for determining Specified Employees for all plans of the Company and its controlled group members that are subject to Section 409A of the Code, the foregoing rules and the other default rules under the regulations of Section 409A of the Code shall

apply. If the person is a key employee as of any identification date, the person is treated as a Specified Employee for the twelve-month period beginning on the first day of the fourth month following the identification date.

2.35 "Spouse" or "Surviving Spouse" means, except as otherwise provided in the Plan, a person who is the legally married spouse or surviving spouse of a Participant.

2.36 "Unforeseeable Emergency" means an "unforeseeable emergency" within the meaning of Section 409A of the Code.

2.37 "Years of Service" means each Plan Year of Service completed by the Participant. For vesting purposes, Years of Service shall be calculated from the date designated in the Adoption Agreement and Service shall be based on service with the Company and all Participating Employers.

Section 3. Participation:

The Committee in its discretion shall designate each Employee or Independent Contractor who is eligible to participate in the Plan. A Participant who separates from Service with the Employer and who later returns to Service will not be an Active Participant under the Plan except upon satisfaction of such terms and conditions as the Committee shall establish upon the Participant's return to Service, whether or not the Participant shall have a balance remaining in the Deferred Compensation Account under the Plan on the date of the return to Service.

Section 4. Credits to Deferred Compensation Account:

4.1 **Participant Deferral Credits.** To the extent provided in the Adoption Agreement, each Active Participant may elect, by entering into a Participation Agreement with the Employer, to defer the receipt of Compensation from the Employer by a dollar

amount or percentage specified in the Participation Agreement. The amount of Compensation the Participant elects to defer, the Participant Deferral Credit, shall be credited by the Employer to the Deferred Compensation Account maintained for the Participant pursuant to Section 8. The following special provisions shall apply with respect to the Participant Deferral Credits of a Participant:

4.1.1 The Employer shall credit to the Participant's Deferred Compensation Account on each Crediting Date an amount equal to the total Participant Deferral Credit for the period ending on such Crediting Date.

4.1.2 An election pursuant to this Section 4.1 shall be made by the Participant by executing and delivering a Participation Agreement to the Committee. Except as otherwise provided in this Section 4.1, the Participation Agreement shall become effective with respect to such Participant as of the first day of January following the date such Participation Agreement is received by the Committee. A Participant's election may be changed at any time prior to the last permissible date for making the election as permitted in this Section 4.1, and shall thereafter be irrevocable. The election of a Participant shall continue in effect for subsequent years until modified by the Participant as permitted in this Section 4.1.

4.1.3 A Participant may execute and deliver a Participation Agreement to the Committee within 30 days after the date the Participant first becomes eligible to participate in the Plan to be effective as of the first payroll period next following the date the Participation Agreement is fully executed. Whether a Participant is treated as newly eligible for participation under this Section shall be determined in accordance with Section 409A of the Code and the regulations thereunder, including (i) rules that treat all elective deferral account balance plans as one plan, and (ii) rules that treat a previously eligible employee as newly eligible if his benefits had been previously distributed or if he has been ineligible for 24 months. For Compensation that is earned based upon a specified performance period (for example, an annual bonus), where a deferral election is made under this Section but after the beginning of the performance period, the election will only apply to the portion of the Compensation equal to the total amount of the Compensation for the service period multiplied by the ratio of the number of days remaining in the performance period after the election over the total number of days in the performance period.

4.1.4 A Participant may unilaterally modify a Participation Agreement (either to terminate, increase or decrease the portion of his future Compensation which is subject to deferral within the percentage limits set forth in Section 4.1 of the Adoption Agreement) by providing a written modification of the Participation Agreement to the Committee. The modification shall become effective as of the first day of January following the date such written modification is received by the Committee.

4.1.5 If the Participant performed services continuously from the later of the beginning of the performance period or the date upon which the performance criteria are established through the date upon which the Participant makes an initial deferral election, a Participation Agreement relating to the deferral of Performance-Based Compensation may be executed and delivered to the Committee no later than the date which is 6 months prior to the end of the performance period, provided that in no event may an election to defer Performance-Based Compensation be made after such Compensation has become readily ascertainable.

4.1.6 If the Employer has a fiscal year other than the calendar year, Compensation relating to Service in the fiscal year of the Employer (such as a bonus based on the fiscal year of the Employer), of which no amount is paid or payable during the fiscal year, may be deferred at the Participant's election if the election to defer is made not later than the close of the Employer's fiscal year next preceding the first fiscal year in which the Participant performs any services for which such Compensation is payable.

4.1.7 Compensation payable after the last day of the Participant's taxable year solely for services provided during the final payroll period containing the last day of the Participant's taxable year (i.e., December 31) is treated for purposes of this Section 4.1 as Compensation for services performed in the subsequent taxable year.

4.1.8 The Committee may from time to time establish policies or rules consistent with the requirements of Section 409A of the Code to govern the manner in which Participant Deferral Credits may be made.

4.1.9 If a Participant becomes Disabled or applies for and is eligible for a distribution on account of an Unforeseeable Emergency during a Plan Year, his deferral election for such Plan Year shall be cancelled.

4.2 **Employer Credits.** If designated by the Employer in the Adoption Agreement, the Employer shall cause the committee to credit to the Deferred Compensation Account of each Active Participant an Employer Credit as determined in accordance with the Adoption Agreement. A Participant must make distribution elections with respect to any Employer Credits credited to his Deferred Compensation Account by the deadline that would apply under Section 4.1 for distribution elections with respect to Participant Deferral Credits credited at the same time, on a Participation

Agreement that is timely executed and delivered to the Committee pursuant to Section 4.1.

4.3 Deferred Compensation Account. All Participant Deferral Credits and Employer Credits shall be credited to the Deferred Compensation Account of the Participant as provided in Section 8.

Section 5. Qualifying Distribution Events:

5.1 Separation from Service. If the Participant Separates from Service with the Employer, the vested balance in the Deferred Compensation Account shall be paid to the Participant by the Employer as provided in Section 7. Notwithstanding the foregoing, no distribution shall be made earlier than six months after the date of Separation from Service (or if earlier, the date of death) with respect to a Participant who as of the date of Separation from Service is a Specified Employee of a corporation the stock in which is traded on an established securities market or otherwise. Any payments to which such Specified Employee would be entitled during the first six months following the date of Separation from Service shall be accumulated and paid on the first day of the seventh month following the date of Separation from Service.

5.2 Disability. If the Employer designates in the Adoption Agreement that distributions are permitted under the Plan when a Participant becomes Disabled, and the Participant becomes Disabled while in Service, the vested balance in the Deferred Compensation Account shall be paid to the Participant by the Employer as provided in Section 7.

5.3 Death. If the Participant dies while in Service, the Employer shall pay a benefit to the Participant's Beneficiary in the amount designated in the Adoption Agreement. Payment of such benefit shall be made by the Employer as provided in Section 7.

5.4 In-Service or Education Distributions. If the Employer designates in the Adoption Agreement that in-service or education distributions are permitted under the Plan, a Participant may designate in the Participation Agreement to have a specified amount credited to the Participant's In-Service or Education Account for in-service or education distributions at the date specified by the Participant. In no event may an in-service or education distribution of an amount be made before the date that is two years after the first day of the year in which such amount was credited to the In-Service or Education Account. Notwithstanding the foregoing, if a Participant incurs a Qualifying Distribution Event prior to the date on which the entire balance in the In-Service or Education Account has been distributed, then the balance in the In-Service or Education Account on the date of the Qualifying Distribution Event shall be paid as provided under Section 7.1 for payments on such Qualifying Distribution Event.

5.5 Change in Control Event. If the Employer designates in the Adoption Agreement that distributions are permitted under the Plan upon the occurrence of a Change in Control Event, the Participant may designate in the Participation Agreement to have the vested balance in the Deferred Compensation Account paid to the Participant upon a Change in Control Event by the Employer as provided in Section 7.

5.6 Unforeseeable Emergency. If the Employer designates in the Adoption Agreement that distributions are permitted under the Plan upon the occurrence of an

Unforeseeable Emergency event, a distribution from the Deferred Compensation Account may be made to a Participant in the event of an Unforeseeable Emergency, subject to the following provisions:

5.6.1 A Participant may, at any time prior to his Separation from Service for any reason, make application to the Committee to receive a distribution in a lump sum of all or a portion of the vested balance in the Deferred Compensation Account (determined as of the date the distribution, if any, is made under this Section 5.6) because of an Unforeseeable Emergency. A distribution because of an Unforeseeable Emergency shall not exceed the amount required to satisfy the Unforeseeable Emergency plus amounts necessary to pay taxes reasonably anticipated as a result of such distribution, after taking into account the extent to which the Unforeseeable Emergency may be relieved through reimbursement or compensation by insurance or otherwise or by liquidation of the Participant's assets (to the extent the liquidation of such assets would not itself cause severe financial hardship) or by stopping current deferrals under the Plan pursuant to Section 4.1.9.

5.6.2 The Participant's request for a distribution on account of Unforeseeable Emergency must be made in writing to the Committee. The request must specify the nature of the financial hardship, the total amount requested to be distributed from the Deferred Compensation Account, and the total amount of the actual expense incurred or to be incurred on account of the Unforeseeable Emergency.

5.6.3 If a distribution under this Section 5.6 is approved by the Committee, such distribution will be made as soon as practicable following the date it is approved. The processing of the request shall be completed as soon as practicable from the date on which the Committee receives the properly completed written request for a distribution on account of an Unforeseeable Emergency. If a Participant's Separation from Service occurs after a request is approved in accordance with this Section 5.6.3, but prior to distribution of the full amount approved, the approval of the request shall be automatically null and void and the benefits which the Participant is entitled to receive under the Plan shall be distributed in accordance with the applicable distribution provisions of the Plan.

5.6.4 The Committee may from time to time adopt additional policies or rules consistent with the requirements of Section 409A of the Code to govern the manner in which such distributions may be made so that the Plan may be conveniently administered.

Section 6. Vesting:

A Participant shall be fully vested in the portion of his Deferred Compensation

Account attributable to Participant Deferral Credits, and all income, gains and losses attributable thereto. A Participant shall become fully vested in the portion of his Deferred Compensation Account attributable to Employer Credits, and income, gains and losses attributable thereto, in accordance with the vesting schedule and provisions designated by the Employer in the Adoption Agreement. If a Participant's Deferred Compensation Account is not fully vested upon Separation from Service, the portion of the Deferred Compensation Account that is not fully vested shall thereupon be forfeited.

Section 7. Distribution Rules:

7.1 Payment Options. The Employer shall designate in the Adoption Agreement the payment options which may be elected by the Participant (lump sum, annual installments, or a combination of both). Different payment options may be made available for each Qualifying Distribution Event, and different payment options may be available for different types of Separations from Service, all as designated in the Adoption Agreement. The Participant shall elect in the Participation Agreement the method under which the vested balance in the Deferred Compensation Account will be distributed from among the designated payment options. The Participant may at such time elect a different method of payment for each Qualifying Distribution Event as specified in the Adoption Agreement. If the Participant is permitted by the Employer in the Adoption Agreement to elect different options and does not make a valid election, the vested balance in the Deferred Compensation Account will be distributed as a lump sum.

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Notwithstanding the foregoing, if certain Qualifying Distribution Events occur prior to the date on which the vested balance of a Participant's Deferred Compensation Account is completely paid pursuant to this Section 7.1 following the occurrence of certain initial Qualifying Distribution Events, the following rules apply:

7.1.1 If the initial Qualifying Distribution Event is a Separation from Service or Disability, and the Participant subsequently dies, the remaining unpaid vested balance of a Participant's Deferred Compensation Account shall be paid as a lump sum.

7.1.2 If the initial Qualifying Distribution Event is a Change in Control Event, and any subsequent Qualifying Distribution Event occurs (except an In-Service or Education Distribution described in Section 2.29(iv)), the remaining unpaid vested balance of a Participant's Deferred Compensation Account shall be paid as provided under Section 7.1 for payments on such subsequent Qualifying Distribution Event.

7.2 Timing of Payments. Payment shall be made in the manner elected by the Participant and shall commence as soon as practicable after (but no later than 60 days after) the distribution date elected for the Qualifying Distribution Event. In the event the Participant fails to make a valid election of the payment method, the distribution will be made in a single lump sum payment as soon as practicable after (but no later than 60 days after) the Qualifying Distribution Event. A payment may be further delayed to the extent permitted in accordance with regulations and guidance under Section 409A of the Code.

7.3 Installment Payments. If the Participant elects to receive installment payments upon a Qualifying Distribution Event, the payment of each annual installment shall be made on the anniversary of the date of the first installment payment, and the amount of the annual installment shall be adjusted on such anniversary for credits or debits to the Participant's account pursuant to Section 8 of the Plan. Such adjustment shall be made by dividing the balance in the Deferred Compensation Account on such date by the number of annual installments remaining to be paid hereunder; provided that the last

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annual installment due under the Plan shall be the entire amount credited to the Participant's account on the date of payment.

7.4 De Minimis Amounts. Notwithstanding any payment election made by the Participant, if the Employer designates a pre-determined de minimis amount in the Adoption Agreement, the vested balance in the Deferred Compensation Account of the Participant will be distributed in a single lump sum payment if at the time of a permitted Qualifying Distribution Event the vested balance does not exceed such pre-determined de minimis amount; provided, however, that such distribution will be made only where the Qualifying Distribution Event is a Separation from Service, death, Disability (if applicable) or Change in Control Event (if applicable). Such payment shall be made on or before the later of (i) December 31 of the calendar year in which the Qualifying Distribution Event occurs, or (ii) the date that is 2-1/2 months after the Qualifying Distribution Event occurs. In addition, the Employer may distribute a Participant's vested balance at any time if the balance does not exceed the limit in Section 402(g)(1)(B) of the Code and results in the termination of the Participant's entire interest in the Plan as provided under Section 409A of the Code.

7.5 Subsequent Elections. With the consent of the Committee, a Participant may delay or change the method of payment of the Deferred Compensation Account subject to the following requirements:

7.5.1 The new election may not take effect until at least 12 months after the date on which the new election is made.

7.5.2 If the new election relates to a payment for a Qualifying Distribution Event other than the death of the Participant, the Participant becoming Disabled, or an Unforeseeable Emergency, the new election must provide for the deferral of the payment for a period of at least five years from the date such payment would otherwise have been made.

7.5.3 If the new election relates to a payment from the In-Service or Education Account, the new election must be made at least 12 months prior to the date of the first scheduled payment from such account.

For purposes of this Section 7.5 and Section 7.6, a payment is each separately identified amount to which the Participant is entitled under the Plan; provided, that entitlement to a series of installment payments is treated as the entitlement to a single payment.

7.6 **Acceleration Prohibited.** The acceleration of the time or schedule of any payment due under the Plan is prohibited except as expressly provided in regulations and administrative guidance promulgated under Section 409A of the Code (such as accelerations for domestic relations orders and employment taxes). It is not an acceleration of the time or schedule of payment if the Employer waives or accelerates the vesting requirements applicable to a benefit under the Plan.

Section 8. Accounts; Deemed Investment; Adjustments to Account:

8.1 **Accounts.** The Committee shall establish a book reserve account, entitled the "Deferred Compensation Account," on behalf of each Participant. The Committee shall also establish an In-Service or Education Account as a part of the Deferred Compensation Account of each Participant, if applicable. The amount credited to the Deferred Compensation Account shall be adjusted pursuant to the provisions of Section 8.3.

8.2 **Deemed Investments.** The Deferred Compensation Account of a Participant shall be credited with an investment return determined as if the account were invested in one or more investment funds made available by the Committee. The Participant shall elect the investment funds in which his Deferred Compensation Account shall be deemed to be invested. Such election shall be made in the manner prescribed by

the Committee and shall take effect upon the entry of the Participant into the Plan. The investment election of the Participant shall remain in effect until a new election is made by the Participant. In the event the Participant fails for any reason to make an effective election of the investment return to be credited to his account, the investment return shall be determined by the Committee.

8.3 Adjustments to Deferred Compensation Account. With respect to each Participant who has a Deferred Compensation Account under the Plan, the amount credited to such account shall be adjusted by the following debits and credits, at the times and in the order stated:

8.3.1 The Deferred Compensation Account shall be debited each business day with the total amount of any payments made from such account since the last preceding business day to him or for his benefit.

8.3.2 The Deferred Compensation Account shall be credited on each Crediting Date with the total amount of any Participant Deferral Credits and Employer Credits to such account since the last preceding Crediting Date.

8.3.3 The Deferred Compensation Account shall be credited or debited on each day securities are traded on a national stock exchange with the amount of deemed investment gain or loss resulting from the performance of the investment funds elected by the Participant in accordance with Section 8.2. The amount of such deemed investment gain or loss shall be determined by the Committee and such determination shall be final and conclusive upon all concerned.

Section 9. Administration by Committee:

9.1 Membership of Committee. If the Committee consists of individuals appointed by the Board, they will serve at the pleasure of the Board. Any member of the Committee may resign, and his successor, if any, shall be appointed by the Board.

9.2 General Administration. The Committee shall be responsible for the operation and administration of the Plan and for carrying out its provisions. The Committee shall have the full authority and discretion to make, amend, interpret, and

enforce all appropriate rules and regulations for the administration of this Plan and decide or resolve any and all questions, including interpretations of this Plan, as may arise in connection with this Plan. Any such action taken by the Committee shall be final and conclusive on any party. To the extent the Committee has been granted discretionary authority under the Plan, the Committee's prior exercise of such authority shall not obligate it to exercise its authority in a like fashion thereafter. The Committee shall be entitled to rely conclusively upon all tables, valuations, certificates, opinions and reports furnished by any actuary, accountant, controller, counsel or other person employed or engaged by the Employer with respect to the Plan. The Committee may, from time to time, employ agents and delegate to such agents, including employees of the Employer, such administrative or other duties as it sees fit.

9.3 Indemnification. To the extent not covered by insurance, the Employer shall indemnify the Committee, each employee, officer, director, and agent of the Employer, and all persons formerly serving in such capacities, against any and all liabilities or expenses, including all legal fees relating thereto, arising in connection with the exercise of their duties and responsibilities with respect to the Plan, provided however that the Employer shall not indemnify any person for liabilities or expenses due to that person's own gross negligence or willful misconduct.

Section 10. Contractual Liability:

10.1 Contractual Liability. Unless otherwise elected in the Adoption Agreement, the Company shall be obligated to make all payments hereunder. This obligation shall constitute a contractual liability of the Company to the Participants, and such payments shall be made from the general funds of the Company. The Company

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shall not be required to establish or maintain any special or separate fund, or otherwise to segregate assets to assure that such payments shall be made, and the Participants shall not have any interest in any particular assets of the Company by reason of its obligations hereunder. To the extent that any person acquires a right to receive payment from the Company, such right shall be no greater than the right of an unsecured creditor of the Company.

10.2 Trust. The Employer may establish a trust to assist it in meeting its obligations under the Plan. Any such trust shall conform to the requirements of a grantor trust under Revenue Procedures 92-64 and 92-65 and at all times during the continuance of the trust the principal and income of the trust shall be subject to claims of general creditors of the Employer under federal and state law. The establishment of such a trust would not be intended to cause Participants to realize current income on amounts contributed thereto, and the trust would be so interpreted and administered.

Section 11. Allocation of Responsibilities:

The persons responsible for the Plan and the duties and responsibilities allocated to each are as follows:

11.1 Board.

- (i) To amend the Plan;
- (ii) To appoint and remove members of the Committee; and
- (iii) To terminate the Plan as permitted in Section 14.

11.2 Committee.

- (i) To designate Participants;
- (ii) To interpret the provisions of the Plan and to determine the rights of the Participants under the Plan, except to the extent otherwise provided in Section 16 relating to claims procedure;
- (iii) To administer the Plan in accordance with its terms, except to the

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extent powers to administer the Plan are specifically delegated to another person or persons as provided in the Plan;

- (iv) To account for the amount credited to the Deferred Compensation Account of a Participant;
- (v) To direct the Employer in the payment of benefits;
- (vi) To file such reports as may be required with the United States Department of Labor, the Internal Revenue Service and any other government agency to which reports may be required to be submitted from time to time; and
- (vii) To administer the claims procedure to the extent provided in Section 16.

Section 12. Benefits Not Assignable; Facility of Payments:

12.1 Benefits Not Assignable. No portion of any benefit credited or paid under the Plan with respect to any Participant shall be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance or charge, and any attempt so to anticipate, alienate, sell, transfer, assign, pledge, encumber or charge the same shall be void, nor shall any portion of such benefit be in any manner payable to any assignee, receiver or any one trustee, or be liable for his debts, contracts, liabilities, engagements or torts. Notwithstanding the foregoing, in the event that all or any portion of the benefit of a Participant is transferred to the former Spouse of the Participant incident to a divorce, the Committee shall maintain such amount for the benefit of the former Spouse until distributed in the manner required by an order of any court having jurisdiction over the divorce, and the former Spouse shall be entitled to the same rights as the Participant with respect to such benefit.

12.2 Plan-Approved Domestic Relations Orders. The Committee shall establish procedures for determining whether an order directed to the Plan is a Plan-Approved Domestic Relations Order. If the Committee determines that an order is a

Plan-Approved Domestic Relations Order, the Committee shall cause the payment of amounts pursuant to or segregate a separate account as provided by (and to prevent any payment or act which might be inconsistent with) the Plan-Approved Domestic Relations Order.

12.3 Payments to Minors and Others. If any individual entitled to receive a payment under the Plan shall be physically, mentally or legally incapable of receiving or acknowledging receipt of such payment, the Committee, upon the receipt of satisfactory evidence of his incapacity and satisfactory evidence that another person or institution is maintaining him and that no guardian or committee has been appointed for him, may cause any payment otherwise payable to him to be made to such person or institution so maintaining him. Payment to such person or institution shall be in full satisfaction of all claims by or through the Participant to the extent of the amount thereof.

Section 13. Beneficiary:

The Participant's beneficiary shall be the person, persons, entity or entities designated by the Participant on the beneficiary designation form provided by and filed with the Committee or its designee. If the Participant does not designate a beneficiary, the beneficiary shall be his Surviving Spouse. If the Participant does not designate a beneficiary and has no Surviving Spouse, the beneficiary shall be the Participant's estate. The designation of a beneficiary may be changed or revoked only by filing a new beneficiary designation form with the Committee or its designee. If a beneficiary (the "primary beneficiary") is receiving or is entitled to receive payments under the Plan and dies before receiving all of the payments due him, the balance to which he is entitled shall be paid to the contingent beneficiary, if any, named in the Participant's current

beneficiary designation form. If there is no contingent beneficiary, the balance shall be paid to the estate of the primary beneficiary. Any beneficiary may disclaim all or any part of any benefit to which such beneficiary shall be entitled hereunder by filing a written disclaimer with the Committee before payment of such benefit is to be made. Such a disclaimer shall be made in a form satisfactory to the Committee and shall be irrevocable when filed. Any benefit disclaimed shall be payable from the Plan in the same manner as if the beneficiary who filed the disclaimer had predeceased the Participant.

Section 14. Amendment and Termination of Plan:

The Company may amend any provision of the Plan or terminate the Plan at any time; provided, that in no event shall such amendment or termination reduce the balance in any Participant's Deferred Compensation Account as of the date of such amendment or termination, nor shall any such amendment affect the terms of the Plan relating to the payment of such Deferred Compensation Account. Notwithstanding the foregoing, the following special provisions shall apply:

14.1 Termination in the Discretion of the Employer. Except as otherwise provided in Sections 14.2, the Company in its discretion may terminate the Plan and distribute benefits to Participants subject to the following requirements and any others specified under Section 409A of the Code:

14.1.1 All arrangements sponsored by the Employer that would be aggregated with the Plan under Section 1.409A-1(c) of the Treasury Regulations are terminated:

14.1.2 No payments other than payments that would be payable under the terms of the Plan if the termination had not occurred are made within 12 months of the termination date.

14.1.3 All benefits under the Plan are paid within 24 months of the termination date.

14.1.4 The Employer does not adopt a new arrangement that would be aggregated with the Plan under Section 1.409A-1(c) of the Treasury Regulations providing for the deferral of compensation at any time within 3 years following the date of termination of the Plan.

14.1.5 The termination does not occur proximate to a downturn in the financial health of the Employer.

14.2 **Termination Upon Change in Control Event.** If the Company terminates the Plan within thirty days preceding or twelve months following a Change in Control Event, the Deferred Compensation Account of each Participant shall become fully vested and payable to the Participant in a lump sum within twelve months following the date of termination, subject to the requirements of Section 409A of the Code.

Section 15. Communication to Participants:

The Employer shall make a copy of the Plan available for inspection by Participants and their beneficiaries during reasonable hours at the principal office of the Employer.

Section 16. Claims Procedure:

The following claims procedure shall apply with respect to the Plan:

16.1 **Filing of a Claim for Benefits.** If a Participant or Beneficiary (the "claimant") believes that he is entitled to benefits under the Plan which are not being paid to him or which are not being accrued for his benefit, he shall file a written claim therefore with the Committee.

16.2 **Notification to Claimant of Decision.** Within 90 days after receipt of a claim by the Committee (or within 180 days if special circumstances require an extension of time), the Committee shall notify the claimant of the decision with regard to the claim. In the event of such special circumstances requiring an extension of time, there shall be

furnished to the claimant prior to expiration of the initial 90-day period written notice of the extension, which notice shall set forth the special circumstances and the date by which the decision shall be furnished. If such claim shall be wholly or partially denied, notice thereof shall be in writing and worded in a manner calculated to be understood by the claimant, and shall set forth: (i) the specific reason or reasons for the denial; (ii) specific reference to pertinent provisions of the Plan on which the denial is based; (iii) a description of any additional material or information necessary for the claimant to perfect the claim and an explanation of why such material or information is necessary; and (iv) an explanation of the procedure for review of the denial and the time limits applicable to such procedures, including a statement of the claimant's right to bring a civil action under ERISA following an adverse benefit determination on review. Notwithstanding the foregoing, if the claim relates to a disability determination, the Committee shall notify the claimant of the decision within 45 days (which may be extended for an additional 30 days if required by special circumstances).

16.3 Procedure for Review. Within 60 days following receipt by the claimant of notice denying his claim, in whole or in part, or, if such notice shall not be given, within 60 days following the latest date on which such notice could have been timely given, the claimant may appeal denial of the claim by filing a written application for review with the Committee. Following such request for review, the Committee shall fully and fairly review the decision denying the claim. Prior to the decision of the Committee, the claimant shall be given an opportunity to review pertinent documents and to submit issues and comments in writing.

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16.4 Decision on Review. The decision on review of a claim denied in whole or in part by the Committee shall be made in the following manner:

16.4.1 Within 60 days following receipt by the Committee of the request for review (or within 120 days if special circumstances require an extension of time), the Committee shall notify the claimant in writing of its decision with regard to the claim. In the event of such special circumstances requiring an extension of time, written notice of the extension shall be furnished to the claimant prior to the commencement of the extension. Notwithstanding the foregoing, if the claim relates to a disability determination, the Committee shall notify the claimant of the decision within 45 days (which may be extended for an additional 45 days if required by special circumstances).

16.4.2 With respect to a claim that is denied in whole or in part, the decision on review shall set forth specific reasons for the decision, shall be written in a manner calculated to be understood by the claimant, and shall set forth:

- (i) the specific reason or reasons for the adverse determination;
- (ii) specific reference to pertinent Plan provisions on which the adverse determination is based;
- (iii) a statement that the claimant is entitled to receive, upon request and free of charge, reasonable access to, and copies of, all documents, records, and other information relevant to the claimant's claim for benefits; and
- (iv) a statement describing any voluntary appeal procedures offered by the Plan and the claimant's right to obtain the information about such procedures, as well as a statement of the claimant's right to bring an action under ERISA section 502(a).

16.4.3 The decision of the Committee shall be final and conclusive.

16.5 Action by Authorized Representative of Claimant. All actions set forth in this Section 16 to be taken by the claimant may likewise be taken by a representative of the claimant duly authorized by him to act in his behalf on such matters. The Committee may require such evidence as either may reasonably deem necessary or advisable of the authority to act of any such representative.

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Section 17. Miscellaneous Provisions:

17.1 Set off. Notwithstanding any other provision of this Plan, the Employer may reduce the amount of any payment otherwise payable to or on behalf of a Participant hereunder (net of any required withholdings) at the time payment is due by the amount of any loan, cash advance, extension of credit or other obligation of the Participant to the Employer that is then due and payable, and the Participant shall be deemed to have consented to such reduction. In addition, the Employer may at any time offset a Participant's Deferral Compensation Account by an amount up to \$5,000 to collect any such amount in accordance with the requirements of Section 409A of the Code.

17.2 Notices. Each Participant who is not in Service and each Beneficiary shall be responsible for furnishing the Committee or its designee with his current address for the mailing of notices and benefit payments. Any notice required or permitted to be given to such Participant or Beneficiary shall be deemed given if directed to such address and mailed by regular United States mail, first class, postage prepaid. If any check mailed to such address is returned as undeliverable to the addressee, mailing of checks will be suspended until the Participant or Beneficiary furnishes the proper address. This provision shall not be construed as requiring the mailing of any notice or notification otherwise permitted to be given by posting or by other publication.

17.3 Lost Distributees. A benefit shall be deemed forfeited if the Committee is unable to locate the Participant or Beneficiary to whom payment is due on or before the fifth anniversary of the date payment is to be made or commence; provided, that the deemed investment rate of return pursuant to Section 8.2 shall cease to be applied to the Participant's account following the first anniversary of such date; provided further,

however, that such benefit shall be reinstated if a valid claim is made by or on behalf of the Participant or Beneficiary for all or part of the forfeited benefit.

17.4 Reliance on Data. The Employer and the Committee shall have the right to rely on any data provided by the Participant or by any Beneficiary. Representations of such data shall be binding upon any party seeking to claim a benefit through a Participant, and the Employer and the Committee shall have no obligation to inquire into the accuracy of any representation made at any time by a Participant or Beneficiary.

17.5 Receipt and Release for Payments. Subject to the provisions of Section 17.1, any payment made from the Plan to or with respect to any Participant or Beneficiary, or pursuant to a disclaimer by a Beneficiary, shall, to the extent thereof, be in full satisfaction of all claims hereunder against the Plan and the Employer with respect to the Plan. The recipient of any payment from the Plan may be required by the Committee, as a condition precedent to such payment, to execute a receipt and release with respect thereto in such form as shall be acceptable to the Committee.

17.6 Headings. The headings and subheadings of the Plan have been inserted for convenience of reference and are to be ignored in any construction of the provisions hereof.

17.7 Continuation of Employment. The establishment of the Plan shall not be construed as conferring any legal or other rights upon any Employee or any persons for continuation of employment, nor shall it interfere with the right of the Employer to discharge any Employee or to deal with him without regard to the effect thereof under the Plan.

17.8 Merger or Consolidation; Assumption of Plan. No Employer shall consolidate or merge into or with another corporation or entity, or transfer all or substantially all of its assets to another corporation, partnership, trust or other entity (a "Successor Entity") unless such Successor Entity shall assume the rights, obligations and liabilities of the Employer under the Plan and upon such assumption, the Successor Entity shall become obligated to perform the terms and conditions of the Plan. Nothing herein shall prohibit the assumption of the obligations and liabilities of the Employer under the Plan by any Successor Entity.

17.9 Construction. The Employer shall designate in the Adoption Agreement the state according to whose laws the provisions of the Plan shall be construed and enforced, except to the extent that such laws are superseded by ERISA and the applicable requirements of the Code.

17.10 Taxes. The Employer or other payor may withhold a benefit payment under the Plan or a Participant's wages, or the Employer may reduce a Participant's Account balance, in order to meet any federal, state, or local or employment tax withholding obligations with respect to Plan benefits, as permitted under Section 409A of the Code. The Employer or other payor shall report Plan payments and other Plan-related information to the appropriate governmental agencies as required under applicable laws.

Section 18. Transition Rules:

This Section 18 does not apply to plans newly established on or after January 1, 2009.

18.1 2005 Election Termination. Notwithstanding Section 4.1.4, at any time during 2005, a Participant may terminate a Participation Agreement, or modify a Participation Agreement to reduce the amount of Compensation subject to the deferral election, so long as the Compensation subject to the terminated or modified participation

Agreement is includible in the income of the Participant in 2005 or, if later, in the taxable year in which the amounts are earned and vested.

18.2 2005 Deferral Election. The requirements of Section 4.1.2 relating to the timing of the Participation Agreement shall not apply to any deferral elections made on or before March 15, 2005, provided that (a) the amounts to which the deferral election relate have not been paid or become payable at the time of the election, (b) the Plan was in existence on or before December 31, 2004, (c) the election to defer compensation is made in accordance with the terms of the Plan as in effect on December 31, 2005 (other than a requirement to make a deferral election after March 15, 2005), and (d) the Plan is otherwise operated in accordance with the requirements of Section 409A of the Code.

18.3 2005 Termination of Participation; Distribution. Notwithstanding anything in this Plan to the contrary, at any time during 2005, a Participant may terminate his or her participation in the Plan and receive a distribution of his Deferred Compensation Account balance on account of that termination, so long as the full amount of such distribution is includible in the Participant's income in 2005 or, if later, in the taxable year of the Participant in which the amount is earned and vested.

18.4 Payment Elections. Notwithstanding the provisions of Sections 7.1 or 7.5 of the Plan, a Participant may elect on or before December 31, 2008, the time or form of payment of amounts subject to Section 409A of the Code provided that such election applies only to amounts that would not otherwise be payable in the year of the election and does not cause an amount to be paid in the year of the election that would not otherwise be payable in such year.

NOTE: Execution of this Adoption Agreement creates a legal liability of the Employer with significant tax consequences to the Employer and Participants. The Employer should obtain legal and tax advice from its professional advisors before adopting the Plan. Principal Life Insurance Company disclaims all liability for the legal and tax consequences which result from the elections made by the Employer in this Adoption Agreement.

Principal Life Insurance Company, Raleigh, NC 27612
A member of the Principal Financial Group®

THE EXECUTIVE NONQUALIFIED "EXCESS" PLAN

ADOPTION AGREEMENT

THIS AGREEMENT is the adoption by Isle of Capri Casinos, Inc. (the "Company") of the Executive Nonqualified Excess Plan ("Plan").

WITNESSETH:

WHEREAS, the Company desires to adopt the Plan as an unfunded, nonqualified deferred compensation plan; and

WHEREAS, the provisions of the Plan are intended to comply with the requirements of Section 409A of the Code and the regulations thereunder and shall apply to amounts subject to section 409A; and

WHEREAS, the Company has been advised by Principal Life Insurance Company to obtain legal and tax advice from its professional advisors before adopting the Plan,

NOW, THEREFORE, the Company hereby adopts the Plan in accordance with the terms and conditions set forth in this Adoption Agreement:

ARTICLE I

Terms used in this Adoption Agreement shall have the same meaning as in the Plan, unless some other meaning is expressly herein set forth. The Employer hereby represents and warrants that the Plan has been adopted by the Employer upon proper authorization and the Employer hereby elects to adopt the Plan for the benefit of its Participants as referred to in the Plan. By the execution of this Adoption Agreement, the Employer hereby agrees to be bound by the terms of the Plan.

ARTICLE II

The Employer hereby makes the following designations or elections for the purpose of the Plan:

- 2.6 **Committee:** The duties of the Committee set forth in the Plan shall be satisfied by:
- ☐ (a) Company
 - ☐ (b) The administrative committee appointed by the Board to serve at the pleasure of the Board.
 - ☐ (c) Board.
 - ☒ (d) Other (specify): The Compensation Committee of the Board, which shall act as administrator of this plan, subject to the delegation of duties by the committee to the officers and employees of the Company.
-

2.8 Compensation: The "Compensation" of a Participant shall mean all of a Participant's:

- ☒ (a) Base salary.
- ☒ (b) Service Bonus.
- ☒ (c) Performance-Based Compensation earned in a period of 12 months or more.
- ☐ (d) Commissions.
- ☐ (e) Compensation received as an Independent Contractor, reportable on Form 1099.
- ☐ (f) Other:

2.9 Crediting Date: The Deferred Compensation Account of a Participant shall be credited with the amount of any Participant Deferral to such account at the time designated below:

- ☐ (a) The last business day of each Plan Year.
- ☐ (b) The last business day of each calendar quarter during the Plan Year.
- ☐ (c) The last business day of each month during the Plan Year.
- ☐ (d) The last business day of each payroll period during the Plan Year.
- ☐ (e) Each pay day as reported by the Employer.
- ☒ (f) Any business day on which Participant Deferrals are received by the administrative recordkeeper.
- ☐ (g) Other:

2.13 Effective Date:

- ☐ (a) This is a newly-established Plan, and the Effective Date of the Plan is
- ☒ (b) "This is an amendment of a plan named Isle of Capri Casinos, Inc. 2005 Deferred Compensation Plan with an effective date of January 1, 2005. The effective date of this amended and restated plan is January 1, 2009. This is amendment number "1"
 - ☒ (i) All amounts in Deferred Compensation Accounts shall be subject to the provisions of this amended and restated Plan.
 - ☐ (ii) Any Grandfathered Amounts shall be subject to the Plan rules in effect on October 3, 2004.

2.20 **Normal Retirement Age:** The Normal Retirement Age of a Participant shall be:

- ☐ (a) Age
- ☐ (b) The later of age or the anniversary of the participation commencement date. The participation commencement date is the first day of the first Plan Year in which the Participant commenced participation in the Plan.
- ☒ (c) Other: N/A.

2.23 **Participating Employer(s):** As of the Effective Date, the following Participating Employer(s) are parties to the Plan:

"Exhibit A, as it may be amended from time to time, includes those members of the controlled group including Isle of Capri Casinos, Inc., who shall be deemed participating employers, without the necessity of further action; each such employer shall be deemed to have delegated to Isle of Capri Casinos, Inc., including the Compensation Committee of its Board of Directors, the authority to administer this plan and to amend, modify terminate or replace this plan, as they deem necessary or appropriate."

2.26 **Plan:** The name of the Plan is

Isle of Capri Casinos, Inc. Amended and Restated Deferred Compensation Plan.

2.28 **Plan Year:** The Plan Year shall end each year on the last day of the month of **December**.

2.30 **Seniority Date:** The date on which a Participant has:

- ☐ (a) Attained age
- ☐ (b) Completed Years of Service from First Date of Service.
- ☐ (c) Attained age and completed Years of Service from First Date of Service.
- ☐ (d) Attained an age as elected by the Participant.
- ☒ (e) Not applicable – distribution elections for Separation from Service are not based on Seniority Date

4.1 **Participant Deferral Credits:** Subject to the limitations in Section 4.1 of the Plan, a Participant may elect to have his Compensation (as selected in Section 2.8 of this Adoption Agreement) deferred within the annual limits below by the following percentage or amount as designated in writing to the Committee:

- ☒ (a) **Base salary:**
 - minimum deferral: %
 - maximum deferral: \$ or 100%
- ☒ (b) **Service Bonus:**
 - minimum deferral: %
 - maximum deferral: \$ or 100%
- ☒ (c) **Performance-Based Compensation:**
 - minimum deferral: %
 - maximum deferral: \$ or 100%
- ☐ (d) **Commissions:**
 - minimum deferral: %

- maximum deferral: \$ or %
- ☐ (c) Form 1099 Compensation:
- minimum deferral: %
- maximum deferral: \$ or %
- ☐ (f) Other:
- minimum deferral: %
- maximum deferral: \$ or %
- ☐ (g) Participant deferrals not allowed.

4.2 Employer Credits: Employer Credits will be made in the following manner:

- ☒ (a) **Employer Discretionary Credits:** The Employer may make discretionary credits to the Deferred Compensation Account of each Active Participant in an amount determined as follows:
 - ☒ (i) An amount determined each Plan Year by the Employer.
 - ☐ (ii) Other:
- ☐ (b) **Other Employer Credits:** The Employer may make other credits to the Deferred Compensation Account of each Active Participant in an amount determined as follows:
 - ☐ (i) An amount determined each Plan Year by the Employer.
 - ☐ (ii) Other:
- ☐ (c) Employer Credits not allowed.

5.2 Disability of a Participant:

- ☒ (a) A Participant's becoming Disabled shall be a Qualifying Distribution Event and the Deferred Compensation Account shall be paid by the Employer as provided in Section 7.1.
- ☐ (b) A Participant becoming Disabled shall not be a Qualifying Distribution Event.

5.3 Death of a Participant: If the Participant dies while in Service, the Employer shall pay a benefit to the Beneficiary in an amount equal to the vested balance in the Deferred Compensation Account of the Participant determined as of the date payments to the Beneficiary commence, plus:

- ☐ (a) An amount to be determined by the Committee.
- ☐ (b) Other:
- ☒ (c) No additional benefits.

5.4 In-Service or Education Distributions: In-Service and Education Accounts are permitted under the Plan:

- ☐ (a) In-Service Accounts are allowed with respect to:

- ☐ Participant Deferral Credits only.
- ☐ Employer Credits only.
- ☐ Participant Deferral and Employer Credits.

In-service distributions may be made in the following manner:

- ☐ Single lump sum payment.
- ☐ Annual installments over a term certain not to exceed 5 years.

Education Accounts are allowed with respect to:

- ☐ Participant Deferral Credits only.
- ☐ Employer Credits only.
- ☐ Participant Deferral and Employer Credits.

Education Accounts distributions may be made in the following manner:

- ☐ Single lump sum payment.
- ☐ Annual installments over a term certain not to exceed years.

If applicable, amounts not vested at the time payments due under this Section cease will be:

- ☐ Forfeited
- ☐ Distributed at Separation from Service if vested at that time

- ☒ (b) No In-Service or Education Distributions permitted.

5.5 Change in Control Event:

- ☐ (a) Participants may elect upon initial enrollment to have accounts distributed upon a Change in Control Event.

- ☒ (b) A Change in Control shall not be a Qualifying Distribution Event.

5.6 Unforeseeable Emergency Event:

- ☒ (a) Participants may apply to have accounts distributed upon an Unforeseeable Emergency event.

- ☐ (b) An Unforeseeable Emergency shall not be a Qualifying Distribution Event

6. **Vesting:** An Active Participant shall be fully vested in the Employer Credits made to the Deferred Compensation Account upon the first to occur of the following events:

- ☐ (a) Normal Retirement Age.
- ☐ (b) Death.
- ☐ (c) Disability.
- ☐ (d) Change in Control Event
- ☐ (e) Other.
- ☒ (f) Satisfaction of the vesting requirement as specified below:

☒ **Employer Discretionary Credits:**

- ☒ (i) Immediate 100% vesting unless otherwise specified by the the employer at the time of credit.

- ☐ (ii) 100% vesting after Years of Service.

- ☐ (iii) 100% vesting at age

- ☐ (iv)

Number of Years of Service	Vested Percentage
Less than 1	0%
1	0%
2	0%
3	0%
4	0%
5	0%
6	0%
7	0%
8	0%
9	0%
10 or more	0%

Less than 1	0%
1	0%
2	0%
3	0%
4	0%
5	0%
6	0%
7	0%
8	0%
9	0%
10 or more	0%

For this purpose, Years of Service of a Participant shall be calculated from the date designated below:

- ☐ (1) First Day of Service.
- ☐ (2) Effective Date of Plan Participation.
- ☐ (3) Each Crediting Date. Under this option (3), each Employer Credit shall vest based on the Years of Service of a Participant from the Crediting Date on which each Employer Discretionary Credit is made to his or her Deferred Compensation Account.

☐ Other Employer Credits:

- ☐ (i) Immediate 100% vesting.
- ☐ (ii) 100% vesting after Years of Service.
- ☐ (iii) 100% vesting at age .
- ☐ (iv)

Number of Years of Service	Vested Percentage
Less than 1	%
1	%
2	%
3	%
4	%
5	%
6	%
7	%
8	%
9	%
10 or more	%

Less than 1	%
1	%
2	%
3	%
4	%
5	%
6	%
7	%
8	%
9	%
10 or more	%

For this purpose, Years of Service of a Participant shall be calculated from the date designated below:

- ☐ (1) First Day of Service.
- ☐ (2) Effective Date of Plan Participation.
- ☐ (3) Each Crediting Date. Under this option (3), each Employer Credit shall vest based on the Years of Service of a Participant from the Crediting Date on which each Employer Discretionary Credit is made to his or her Deferred Compensation Account.

7.1 Payment Options: Any benefit payable under the Plan upon a permitted Qualifying Distribution Event may be made to the Participant or his Beneficiary (as applicable) in any of the following payment forms, as selected by the Participant in the Participation Agreement:

(a) Separation from Service prior to Seniority Date, or Separation from Service if Seniority Date is Not Applicable

- ☒ (i) A lump sum.
- ☒ (ii) Annual installments over a term certain as elected by the Participant not to exceed 10 years.
- ☒ (iii) Other: Upon separation from the company and its affiliates; or the later of the date a participant ceases to be employed or a specified age (not later than age 65)

Note: Regardless of your election, distribution will be delayed until the first day of the calendar month that is at least six months after your employment ceases, unless your employment ends on account of your death or disability.

(b) Separation from Service on or After Seniority Date, If Applicable

- ☐ (i) A lump sum.
- ☐ (ii) Annual installments over a term certain as elected by the Participant not to exceed years.
- ☐ (iii) Other:

(c) Separation from Service Upon a Change in Control Event

- ☒ (i) A lump sum.

☐ (ii) Annual installments over a term certain as elected by the Participant not to exceed years.

☐ (iii) Other:

(d) Death

☒ (i) A lump sum.

☐ (ii) Annual installments over a term certain as elected by the Participant not to exceed years.

☐ (iii) Other:

(e) Disability

- ☒ (i) A lump sum.
- ☐ (ii) Annual installments over a term certain as elected by the Participant not to exceed years.
- ☐ (iii) Other:
- ☐ (iv) Not applicable.

If applicable, amounts not vested at the time payments due under this Section cease will be:

- ☐ Forfeited
- ☐ Distributed at Separation from Service if vested at that time

(f) Change in Control Event

- ☐ (i) A lump sum.
- ☐ (ii) Annual installments over a term certain as elected by the Participant not to exceed years.
- ☐ (iii) Other:
- ☒ (iv) Not applicable.

If applicable, amounts not vested at the time payments due under this Section cease will be:

- ☐ Forfeited
- ☐ Distributed at Separation from Service if vested at that time

7.4 De Minimis Amounts.

- ☒ (a) Notwithstanding any payment election made by the Participant, the vested balance in the Deferred Compensation Account of the Participant will be distributed in a single lump sum payment at the time designated under the Plan if at the time of a permitted Qualifying Distribution Event that is either a Separation from Service, death, Disability (if applicable) or Change in Control Event (if applicable) the vested balance does not exceed \$ 10,000. In addition, the Employer may distribute a Participant's vested balance at any time if the balance does not exceed the limit in Section 402(g)(1)(B) of the Code and results in the termination of the Participant's entire interest in the Plan.
- ☐ (b) There shall be no pre-determined de minimis amount under the Plan; however, the Employer may distribute a Participant's vested balance at any time if the balance does not exceed the limit in Section 402(g)(1)(B) of the Code and results in the termination of the Participant's entire interest in the Plan.

10.1 Contractual Liability: Liability for payments under the Plan shall be the responsibility of the:

- ☒ (a) Company.
- ☐ (b) Employer or Participating Employer who employed the Participant when amounts were deferred.

14. Amendment and Termination of Plan: Notwithstanding any provision in this Adoption Agreement or the Plan to the contrary, Section 2.23 of the Plan shall be amended to read as provided in attached Exhibit A.

17.9 Construction: The provisions of the Plan shall be construed and enforced according to the laws of the State of Missouri, except to the extent that such laws are superseded by ERISA and the applicable provisions of the Code.

IN WITNESS WHEREOF, this Agreement has been executed as of the day and year stated below.

Isle of Capri Casinos, Inc.

Name of Employer

By: /s/ R. Ronald Burgess

Authorized Person

Date: 12/4/08

**ISLE OF CAPRI CASINOS, INC.
AMENDED AND RESTATED DEFERRED COMPENSATION PLAN**

Exhibit A

The following entities, each of which is a member of the controlled group of corporations or other entities including Isle of Capri Casinos, Inc., within the meaning of Section 414 of the Internal Revenue Code of 1986, as amended, shall be deemed participating employers in the Amended and Restated Deferred Compensation Plan, without the necessity of further action. Each such entity shall be deemed to have delegated to the Compensation Committee of the Board of Directors of Isle of Capri Casinos, Inc. the power and authority to administer such plan on its behalf, to amend, restate, replace, modify or terminate such plan, to designate participants thereunder, and to take such other action as may be necessary or appropriate, all without notice or affirmative consent.

Riverboat Corporation of Mississippi
St. Charles Gaming Company, Inc.
IOC-Kansas City, Inc.
IOC-Davenport, Inc.
Grand Palais Riverboat, Inc.
IOC-Boonville, Inc.
IOC-Lula, Inc.
IOC-Natchez, Inc.
Isle of Capri Marquette, Inc.
Isle of Capri Black Hawk, LLC
Isle of Capri Bettendorf, LLC
PPI, Inc.
CCSC/Blackhawk, Inc.

**ISLE OF CAPRI CASINOS, INC.
NONEMPLOYEE DIRECTOR DEFERRED COMPENSATION PLAN
COMPLIANCE AMENDMENT
(2007 Transitional Payment Election)**

Whereas, Isle of Capri Casinos, Inc., (the "Company") maintains the Isle of Capri Casinos, Inc. Nonemployee Director Deferred Compensation Plan, which plan is intended to be a nonqualified deferred compensation plan, first effective as of January 11, 2005 (the "Plan");

Whereas, Article 9 of the Plan permits amendment by the Board of Directors of the Company or the Compensation Committee thereof, and such committee has authorized the amendment of the Plan to permit certain transitional elections contemplated under Section 409A of the Internal Revenue Code of 1986, as amended, and the guidance promulgated thereunder;

Now, Therefore, effective as of October 15, 2007, the following Paragraph 7.9 shall be added to the Plan to read in its entirety as follows:

"7.9 Transitional Elections. Notwithstanding any provision of the Plan to the contrary, a Participant herein as of October 30, 2007, who has not yet received his or her benefits hereunder (or the distribution of such benefits has not yet commenced) (a "Continuing Participant") shall be entitled to:

- a. Designate a time of payment with respect to his or her interest in the Plan, which shall not be earlier than the date on which he or she is deemed to separate from service as a member of the Board of Directors of the Company within the meaning of Code Section 409A or January 1, 2008, if later.
- b. Elect either (i) to receive his or her benefits in the form of a single-sum payment or not more than ten annual installments, or (ii) to increase or decrease the number of installment payments previously in effect.

Any such designation shall be made on forms provided by the Committee or its designee and shall be given effect provided it is received and accepted by the Committee or its designee not later than December 31, 2007, or such earlier date as may be deemed necessary or appropriate. Unless a Continuing Participant otherwise provides, any such election shall apply to such Participant's entire Plan interest.

If a Continuing Participant fails to timely submit an election hereunder, he or she shall be deemed to have elected the distribution of his or her interest in the Plan in accordance with the provisions of Paragraph 7.1 thereof. Any designation or deemed designation hereunder shall be subject to modification as provided in Paragraph 7.4 hereof."

This 2007 Transitional Payment Election was approved by the Compensation Committee of the Board of Directors of the Company on October 15, 2007.

ISLE OF CAPRI CASINOS, INC.



MEDICAL EXECUTIVE REIMBURSEMENT PLAN
(MERP)

Revised 1/2009

Certain key employees of Isle of Capri Casinos, Inc. are eligible to participate in the Medical Executive Reimbursement Plan (MERP). Eligible participants will be designated by the Compensation Committee. Individual participation will be confirmed by the Sr. VP of Human Resources. Participation will begin concurrent with the effective date of coverage under the company's group health plans.

Coverage under the plan will include:

- The employee
- Employee's spouse
- Employee's legal dependents (as defined in the group health insurance plan)

The maximum amount of benefit provided under this plan will be 5% of the participant's compensation for the prior calendar year.

Compensation is defined as the participant's base annual salary:

Compensation for a new participant in the first year of participation will be determined as follows:

- If the participant was an employee during the preceding full calendar year, then the compensation amount will be the amount for the preceding calendar year, as defined above, prorated for the number of months the person will be a participant in the first year of participation.
- If the participant did not work the full preceding calendar year, the compensation amount will be the current rate of pay and fees annualized and prorated for the number of months the person will be a participant in the first year of participation.

Benefits payable under this plan will be reimbursements of health care expenses incurred by covered individuals. These include, but may not be limited to:

- Items covered but not reimbursed by the Company's group health plans such as deductibles, coinsurance and copayments.

- Dental out-of-pocket expenses (excluding cosmetic procedures).
- Vision exams and prescription corrective lenses, limited to one pair of glasses and contact lenses for vision correction, per calendar year per covered person. (This is in addition to any pair of glasses or contact lenses that may be purchased through Vision Service Plan (VSP) benefit plan, if you elected that benefit.) Additional replacement glasses may be allowed if glasses are lost or broken.
- Hearing exams and hearing aids.
- Durable medical equipment such as canes, walkers, crutches, wheelchairs.
- Certain over-the-counter medications allowed under IRS Code 213. Over-the-counter medications and certain home medical equipment will be limited to \$5,000 per plan year.

Expenses not covered include, but not limited to:

- Cosmetic procedures
- Vitamins, dietary supplements
- Cosmetics
- Toiletries
- Massage therapy
- Missed appointment fees
- Expenses for non-compliance under the group health plans

The Compensation Committee has given authority to the Sr. VP of Human Resources to take any action which in his sole discretion is deemed necessary or advisable in order to maintain the program's integrity.

Benefits under this plan will be paid directly to the participant after consideration by the appropriate group health plan. For medical and prescription drug claims that are processed through the Coventry Health Plan, participants will automatically receive reimbursement checks directly from their MERP account, mailed to their home address. You will not need to

submit a paper reimbursement request form. You can manage your MERP account through www.mycovenryhealth.com.

After you receive your Explanation of Benefits (EOB) from the dental or vision plans, you will submit the EOB for reimbursement consideration for any eligible, out-of-pocket expenses. For expenses not subject to Explanation of Benefits (eyeglasses, over-the-counter medications, etc.) you will need to submit a paid receipt along with a reimbursement request form.

Benefits paid will be reported as taxable income in accordance with IRS regulations. Participants agree that any benefits received under this plan and also paid to the participant from another insurance carrier or any other source will be refunded to the Medical Executive Reimbursement Plan.

Participants are required to submit Explanation of Benefits, invoices, or paid receipts for services to be considered under this plan within 180 days of their occurrence, using the appropriate MERP paper reimbursement form.

Reimbursement Forms should be faxed to:
Coventry Health Care
606-330-1377

RESTRICTED STOCK AGREEMENT

ISLE OF CAPRI CASINOS, INC.
AMENDED AND RESTATED
2000 LONG-TERM INCENTIVE PLAN

This AGREEMENT, entered into as of the Grant Date (as defined in paragraph 1), by and between the Participant and Isle of Capri Casinos, Inc. (the "Company");

WITNESSETH THAT:

WHEREAS, the Company maintains the Isle of Capri Casinos, Inc. Amended and Restated 2000 Long-Term Incentive Plan (the "Plan"), which is incorporated into and forms a part of this Agreement, and the Participant has been selected by the committee administering the Plan (the "Committee") to receive a Restricted Stock Award under the Plan;

NOW, THEREFORE, IT IS AGREED, by and between the Company and the Participant as follows:

1. Terms of Award. The following words and phrases used in this Agreement shall have the meanings set forth in this paragraph 1:

- (a) The "Participant" is
- (b) The "Grant Date" is
- (c) The number of "Covered Shares" awarded under the Agreement is shares. Covered Shares are shares of Stock granted under this Agreement and are subject to the terms of this Agreement and the Plan.
- (d) The "Restricted Period" with respect to any Covered Share is the period beginning on the Grant Date and ending on the date that such Covered Share is fully vested in accordance with the terms of this Agreement. The Restricted Period applicable to the Covered Shares is set forth in paragraph 5 of this Agreement.
- (e) Other words and phrases used in this Agreement are defined in the Plan or elsewhere in this Agreement. Except where the context clearly implies or indicates the contrary, a word, term, or phrase used in the Plan is similarly used in this Agreement.

2. Award. The Participant is hereby granted the number of Covered Shares set forth in paragraph 1:

3. Dividends and Voting Rights. The Participant shall be entitled to receive any dividends paid with respect to the Covered Shares that become payable during the Restricted Period; provided, however, that no dividends shall be payable to or for the benefit of the Participant for Covered Shares with respect to record dates occurring prior to the Grant Date, or with respect to record dates occurring on or after the date, if any, on which the Participant has forfeited those Covered Shares. The Participant shall be entitled to vote the Covered Shares during the Restricted Period to the same extent as would have been applicable to the Participant

if the Participant was then vested in the shares; provided, however, that the Participant shall not be entitled to vote the shares with respect to record dates for such voting rights arising prior to the Grant Date, or with respect to record dates occurring on or after the date, if any, on which the Participant has forfeited those Covered Shares.

4. Deposit of Covered Shares. During the Restricted Period, each Covered Share granted under this Agreement shall be registered in the name of the Participant and shall be deposited with the Company's transfer agent (either on a certificated or uncertificated basis as determined by the Committee). The grant of the Covered Shares is conditioned upon the Participant endorsing in blank a stock power for the Covered Shares.

5. Transfer, Vesting and Forfeiture of Shares. Subject to the terms and conditions of this Agreement, if the Date of Termination does not occur during the Restricted Period with respect to any Installment of the Covered Shares, then, at the end of the Restricted Period for such shares, the Participant shall become vested in those Covered Shares, and shall own the shares free of all restrictions otherwise imposed by this Agreement, other than those set forth in paragraph 6 hereof. With respect to any of the Covered Shares, the period during which such Covered Shares are not vested (and are therefore subject to forfeiture) is referred to herein as the "Restricted Period". The Restricted Period shall begin on the Grant Date with respect to all of the Covered Shares and shall end on the third anniversary of the Grant Date. Upon the vesting of any Covered Share, the Participant shall own such share free of all restrictions otherwise imposed by this Agreement, other than the restrictions imposed by paragraph 6 hereof. Notwithstanding the foregoing provisions of this paragraph 5, the Participant shall become vested in the Covered Shares and shall become the owner of the shares free of all restrictions otherwise imposed by this Agreement, other than the restrictions of paragraph 6, and the Restricted Period with respect to all of the Covered Shares shall terminate and expire prior to the date otherwise indicated above upon the vesting of the Covered Shares upon (a) a Change in Control that occurs on or before the Date of Termination, (b) the Date of Termination if such Date of Termination occurs on account of the Participant's death, Disability or Retirement, or, if applicable (c) the occurrence of any other acceleration event described in a written employment agreement, if any, between the Participant and the Company or a subsidiary of the Company. Except as otherwise provided in this paragraph 5, the Participant shall forfeit any of the Covered Shares which have not vested as of his Date of Termination:

6. Compliance with Applicable Laws; Limits on Distribution.

- (a) Compliance with Securities Laws. If the Participant is subject to Section 16(a) and 16(b) of the Exchange Act, the Committee may, at any time, add such conditions and limitations to any of the Covered Shares (or the shares of Stock after the Restricted Period has lapsed) as the Committee, in its sole discretion, deems necessary or desirable to comply with Section 16(a) or 16(b) of the Exchange Act and the rules and regulations thereunder or to obtain any exemption therefrom.
- (b) Certificates; Cash in Lieu of Fractional Shares. To the extent that the Plan or this Agreement provides for issuance of certificates to reflect the transfer of Covered Shares, the transfer of such shares may be effected on a non-certificated basis, to the extent not prohibited by applicable law or the rules of any securities exchange or similar entity. In lieu of issuing a fraction of a share of Stock pursuant to the Plan or this Agreement, the Company may pay to the Participant an amount equal to the Fair Market Value of such fractional share.

- (c) **Lock-Up Period.** The Participant hereby agrees that, if so requested by the Company or any representative of the underwriters (the "Managing Underwriter") in connection with any registration of the offering of any securities of the Company under the Securities Act of 1933, as amended (the "Securities Act"), the Participant shall not sell or otherwise transfer any Stock or other securities of the Company during the 180-day period, or such other period as may be requested in writing by the Managing Underwriter and agreed to in writing by the Company (the "Market Standoff Period") following the effective date of a registration statement of the Company filed under the Securities Act. Such restriction shall apply only to the first registration statement of the Company to become effective under the Securities Act that includes securities to be sold on behalf of the Company to the public in an underwritten public offering under the Securities Act. The Company may impose stop-transfer instructions with respect to securities subject to the foregoing restrictions until the end of such Market Standoff Period.

7. **Withholding.** The grant and vesting of shares of Stock under this Agreement are subject to withholding of all applicable taxes. At the election of the Participant, and subject to such rules and limitations as may be established by the Committee from time to time, such withholding obligations may be satisfied through the surrender of shares of Stock which the Participant already owns, or to which the Participant is otherwise entitled under the Plan; provided, however, that such shares may be used to satisfy not more than the Company's minimum statutory withholding obligation (based on minimum statutory withholding rates for Federal and state tax purposes, including payroll taxes, that are applicable to such supplemental taxable income).

8. **Nontransferability.** During the Restricted Period for a Covered Share, the Covered Share may not be sold, assigned, transferred, pledged or otherwise encumbered in any manner otherwise than by will or by the laws of descent or distribution.

9. **Heirs and Successors.** This Agreement shall be binding upon, and inure to the benefit of, the Company and its successors and assigns, and upon any person acquiring, whether by merger, consolidation, purchase of assets or otherwise, all or substantially all of the Company's assets and business. If any rights exercisable by the Participant or benefits deliverable to the Participant under this Agreement have not been exercised or delivered, respectively, at the time of the Participant's death, such rights shall be exercisable by the Designated Beneficiary, and such benefits shall be delivered to the Designated Beneficiary, in accordance with the provisions of this Agreement and the Plan.

10. **Administration.** The authority to manage and control the operation and administration of this Agreement shall be vested in the Committee, and the Committee shall have all powers with respect to this Agreement as it has with respect to the Plan. Any interpretation of the Agreement by the Committee and any decision made by it with respect to the Agreement is final and binding on all persons.

11. **Plan Governs.** Notwithstanding anything in this Agreement to the contrary, the terms of this Agreement shall be subject to the terms of the Plan, a copy of which may be obtained by the Participant from the office of the Secretary of the Company and this Agreement is subject to all interpretations, amendments, rules and regulations promulgated by the Committee from time to time pursuant to the Plan.

12. Not An Employment Contract or Contract of Continued Service. The grant of Covered Shares pursuant to this Agreement will not confer on the Participant any right with respect to continuance of employment or other service with the Company or any Subsidiary, nor will it interfere in any way with any right the Company or any Subsidiary would otherwise have to terminate or modify the terms of such Participant's employment or other service at any time.

13. Amendment. This Agreement may be amended in accordance with the provisions of the Plan and may otherwise be amended by written agreement of the Participant and the Company without the consent of any other person.

14. Severability. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement and each other provision of this Agreement shall be severable and enforceable to the extent permitted by law.

15. Applicable Law. The provisions of this Agreement shall be construed in accordance with the laws of the State of Delaware, without regard to the conflict of law provisions of any jurisdiction.

16. Entire Agreement. The Plan and this Agreement constitute all of the terms with respect to the subject matter hereof and supersede in their entirety all prior undertakings and agreements of the Company and the Participant with respect to the subject matter hereof.

17. Definitions. For purposes of this Agreement, words and phrases used in this Agreement shall be defined as follows:

- (a) Date of Termination. The term "Date of Termination" means, as applicable (i) the first day occurring on or after the Grant Date on which the Participant is not employed by the Company or any Subsidiary, regardless of the reason for the termination of employment or (ii) the first day occurring on or after the Grant Date on which the Participant ceases to be a member of the Board of Directors of the Company, regardless of the reason for such cessation of services as a director. Notwithstanding the foregoing, a termination of employment shall not be deemed to occur by reason of a transfer of the Participant between the Company and a Subsidiary or between two Subsidiaries and the Participant's employment shall not be considered terminated while the Participant is on a leave of absence from the Company or a Subsidiary approved by the Participant's employer. If, as a result of a sale or other transaction, the Participant's employer ceases to be a Subsidiary (and the Participant's employer is or becomes an entity that is separate from the Company), the occurrence of such transaction shall be treated as the Date of Termination caused by the Participant being discharged by the employer.
- (b) Designated Beneficiary. The "Designated Beneficiary" shall be the beneficiary or beneficiaries designated by the Participant in a writing filed with the Committee in such form and at such time as the Committee shall require. If a deceased Participant fails to designate a beneficiary, or if the Designated Beneficiary does not survive the Participant, any rights that would have been exercisable by the Participant and any benefits distributable to the Participant shall be exercised by or distributed to the legal representative of the estate of the Participant. If a deceased Participant designates a beneficiary and the Designated Beneficiary survives the Participant but dies before the Designated Beneficiary's

exercise of all rights under this Agreement or before the complete distribution of benefits to the Designated Beneficiary under this Agreement, then any rights that would have been exercisable by the Designated Beneficiary shall be exercised by the legal representative of the estate of the Designated Beneficiary, and any benefits distributable to the Designated Beneficiary shall be distributed to the legal representative of the estate of the Designated Beneficiary.

- (c) **Disability.** Except as otherwise provided by the Committee, the Participant shall be considered to have a "Disability" during the period in which the Participant is unable, by reason of a medically determinable physical or mental impairment, to engage in any substantial gainful activity, which condition, in the opinion of a physician selected by the Committee, is expected to have a duration of not less than 120 days.
- (d) **Retirement.** The term "Retirement" shall mean the termination by a Participant of his employment or service as a director, as applicable, by reason of reaching the age of 65 or such later date approved by the Board of Directors of the Company.
- (e) **Plan Definitions.** Except where the context clearly implies or indicates the contrary, a word, term, or phrase used in the Plan is similarly used in this Agreement.

IN WITNESS WHEREOF, the Company has caused these presents to be executed in its name and on its behalf, all as of the Grant Date.

Isle of Capri Casinos, Inc.

By:

Its:

[Participant]

AMENDED AND RESTATED LEASE AGREEMENT

by and between

THE PORT AUTHORITY OF KANSAS CITY, MISSOURI
("LANDLORD")

and

HILTON HOTELS CORPORATION
("TENANT")

dated as of

AUGUST 21, 1995

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AMENDED AND RESTATED

LEASE AGREEMENT

THIS AMENDED AND RESTATED LEASE AGREEMENT (the "Lease") is made and entered into by and between THE PORT AUTHORITY OF KANSAS CITY, MISSOURI (the "Landlord") and HILTON HOTELS CORPORATION, a Delaware corporation (the "Tenant"), as of the 21 day of August, 1995.

RECITALS

The following recitals are a material part of this Lease:

A. Landlord is a body politic created and formed by the city of Kansas City, Missouri (the "City") under Ordinance Number 47523 adopted February 11, 1983 by virtue of the power granted to the City under Sections 68.010 et. seq. of the Revised Statutes of Missouri.

B. Tenant submitted a proposal dated December 30, 1992, and supplemented on January 11, 1993 (collectively, the "Proposal"), to construct gaming facilities on property leased by Landlord from the City. Landlord and Tenant signed a Development Agreement on March 12, 1993, under which Tenant attempted to develop such facilities on Site B and agreed to construct related infrastructure on behalf of Landlord and the City. Because of difficult site constraints, changing regulatory requirements, changes in the Missouri gaming laws, and concern of Landlord and Tenant with potential problems relating to environmental and archaeological issues at Site B, Landlord and Tenant have agreed, subject to the Development Agreement (as defined herein), to construct Tenant's gaming enterprise at Site A instead of at Site B and to modify the requirements of the Development Agreement relating to infrastructure construction and development.

C. The City, as present owner of the Demised Premises (as defined herein) has, under that certain Kansas City Riverfront Lease Agreement dated May 14, 1993 as amended by agreements dated September 30, 1994 and August 21, 1995 (collectively "City Lease"), leased the Demised Premises (as herein defined) to Landlord with all necessary right, title and interest thereto in order for Landlord to have the full legal ability to further sublease the same to other parties such as Tenant.

D. Subject to and in connection with that certain Development Agreement made and entered into by and between the Landlord and Tenant on March 12, 1993, and amended by Addenda One through Fourteen (collectively the "Development Agreement"), the first and signature pages of each of which are attached hereto identified as Exhibit A, Landlord has agreed to sublease to Tenant the Demised Premises and the Easements (as defined herein) and Tenant has agreed to sublease the same from Landlord.

E. On March 12, 1993, Landlord and Tenant entered into a certain Lease Agreement (the "Lease") under which Landlord leased to Tenant the Demised Premises and additional real property.

F. In the Twelfth and Thirteenth Addendums to the Development Agreement (Exhibit D) the parties agreed that Tenant would construct its riverboat gaming floating facility ("Riverboat Gaming Facility") in a basin adjacent to the Missouri River.

G. The parties hereto have determined that the Lease should be amended and restated.

WITNESSETH, that for and in consideration of the sum of Ten and NO/100 Dollars (\$10.00) to each of them paid by the other, and other good and valuable consideration, the receipt, adequacy and sufficiency of which is hereby acknowledged by each of them, the parties hereto do hereby covenant and agree as follows:

ARTICLE I Demised Premises

Section 1.01. DEMISE. Landlord hereby subleases to Tenant, and Tenant hereby leases from Landlord, the real property described in Exhibit B attached hereto, together with all buildings and improvements to be constructed in accordance with the Development Agreement ("Site Improvements") (collectively the "Demised Premises"), and specifically including the Riverboat Gaming Facility and including the following easements and appurtenances:

(a) That certain driveway easement conveyed to Landlord by Kansas City Power and Light Company ("KCPL") in the document entitled "Service Access Easement Agreement," which is recorded as Document No. in Volume at Page of the Recorder of Deeds Office of Jackson County, Missouri and which was executed by such parties for the purpose of ingress and egress to and from the Demised Premises and Riverfront Road and which such easement is described in Exhibit B-1, which is attached hereto and incorporated herein by reference; and

(b) A certain pedestrian easement (the "Pedestrian Access Easement") to be conveyed to and inuring to the benefit of Landlord in accordance with the Development Agreement and providing access for pedestrians crossing Front Street for the purpose of using Tenant's Riverboat Gaming Facility (to be attached to this Lease and identified as Exhibit B-2, as part of a future amendment to this Lease); and

(c) Any other easements or other rights in adjoining property inuring to the benefit of Landlord by reason of the City Lease including any and all easements reasonably required for the installation, maintenance, operation and service of sewer, water, gas, power, and other utility lines and services.

(d) All machinery, equipment and fixtures and other items of personal property and any replacements thereof, attached to or used

in connection with the use, occupation and operation of the Demised Premises and the Easements, except those items specifically referred to as Tenant's Personalty and Fixtures in Section 4.01 hereof; and all alterations, additions and improvements hereafter made to the Demised Premises, title to which may now or hereafter vest in City and/or Landlord.

Following the conveyance of the Pedestrian Access Easement to Landlord, this Lease shall be amended by the addition of the legal description for such easement.

The Pedestrian Access Easement and the Service Access Easement referred to in subsections (a) and (b) are hereinafter referred to as "the Easements."

Landlord warrants that it and no other entity now has the right to sublease the Demised Premises and the Easements to Tenant, and that so long as Tenant is not in default hereunder or under the Development Agreement, Tenant shall have peaceful and quiet use of the Demised Premises and the Easements, subject to all matters presently of record and all other agreements and encumbrances to which this Lease is or may hereafter be subordinated or otherwise made subject to as permitted herein or in the Development Agreement, and such use by Tenant shall also be subject to the following:

- (i) any state of facts which an accurate survey may show; and
- (ii) easements, covenants and restrictions of record, if any, to the extent that the same are in force or effect; and
- (iii) present and future zoning laws, ordinances, resolutions and regulations of the City, and all present and future ordinances, laws, regulations and orders of all boards, bureaus, commissions and bodies of any municipal, county, state or federal government or governmental authority now or hereafter having or acquiring jurisdiction of the Demised Premises and/or the use and improvement thereof and/or the operation of gaming or other enterprises thereat or in connection therewith; and
- (iv) violations of law, ordinances, orders and requirements, whether or not of record, of any federal, state or municipal department or authority having jurisdiction over or affecting the Demised Premises, as the same may exist on the date hereof or may be hereafter enacted; and
- (v) condition and state of repair of the Demised Premises as the same may be on the date of execution hereof.

Notwithstanding anything to the contrary contained herein, the Demised Premises, the Easements, and all improvements presently existing thereon, Landlord's interest therein and City's title thereto have been examined by Tenant and when accepted by it as evidenced by its execution hereof or by its use thereof shall be

deemed to have been accepted by it in its then present "as is" condition, except as set out in Article VIII hereof.

Section 1.02. TERM. The term of this Lease (the "Term") shall commence on the date hereof (the "Commencement Date") and shall terminate on the Termination Date (as defined herein), except as renewed under Article XIX hereof or as earlier terminated under Article XVIII hereof. The date on which the Term shall terminate (the "Termination Date") shall be the earlier of:

(a) Ten (10) years after the date on which Tenant begins operation of its riverboat gaming enterprise ("Actual Opening Date") on the Demised Premises; or

(b) Ten (10) years after the Deemed Opening Date (which shall be twenty-four (24) months after the Commencement Date, subject to extension for force majeure delay as defined in Section 5.4 of the Development Agreement) (the Actual Opening Date or the Deemed Opening Date, whichever first occurs is sometimes referred to herein as the "Opening Date").

Landlord and Tenant agree, upon demand of the other, to execute and deliver to the other party hereto, a declaration setting forth the Termination Date (in conformance herewith) as soon as it has been determined.

Section 1.03. TERMINATION. This Lease shall terminate on the Termination Date (unless renewed in accordance with the provisions for renewal contained in Article XIX hereof, or unless otherwise extended by written agreement of Landlord and Tenant), without the necessity of any additional notice from either Landlord or Tenant to terminate the same, and Tenant hereby waives notice to then vacate or quit the Demised Premises and agrees that Landlord shall then be entitled to the benefit of all provisions of law respecting the summary recovery of possession of the Demised Premises from a tenant holding over to the same extent as if statutory notice had been given. Tenant hereby agrees that if it fails to surrender the Demised Premises and the Easements on the Termination Date, Tenant will be liable to Landlord for any and all damages which Landlord shall suffer by reason thereof including, but not being limited to, damages under Section 1.04 hereof and liquidated damages as described in Section 2.06 hereof or elsewhere described herein.

Section 1.04. HOLDING OVER. If Tenant shall be in possession of the Demised Premises after the expiration of the Term, or, if applicable, after any validly exercised renewal thereof as provided for herein, the tenancy under this Lease shall become one from month to month, terminable by either party on thirty (30) days prior written notice, and shall be subject to all of the terms and conditions of this Lease as though the Term had been extended from month to month, except that: (i) the Minimum Net Rent (as defined herein) payable hereunder for each month during said holdover period shall be equal to twice the monthly installment of Minimum Net Rent (as defined herein) payable during the last month of the Term (or any such renewal thereof), (ii) the installment of

Percentage Rent (as defined herein) payable hereunder for each such month shall be equal to one-twelfth (1/12th) of the average annual Percentage Rent payable hereunder, if any, for the immediately preceding three (3) years of the Term (or any renewal thereof); and (iii) all Additional Rent payable hereunder shall be prorated for each month during such holdover period.

ARTICLE II Rent

Section 2.01. AMOUNT AND MEDIUM OF PAYMENT. Throughout the Term and any renewal thereof, Tenant shall pay Landlord, without notice or demand, in lawful money of the United States of America, at the office of Landlord or at such other place as Landlord shall designate within the City, State of Missouri, as rent hereunder (collectively, the "Rent") the following:

- a. Interim Fixed Rent as called for in Section 2.02 hereof; plus
- b. Minimum Net Rent as called for in Section 2.03 hereof; plus
- c. Percentage Rent as called for in Section 2.05 hereof; plus
- d. Additional Rent as called for in Section 2.10 hereof.

Section 2.02. INTERIM FIXED RENT. In lieu of Tenant's otherwise agreeing to reimburse Landlord for expenses paid and/or incurred by Landlord for attorneys, accountants and other consultants retained by Landlord in connection with its requesting Tenant's Proposal and selecting Tenant as developer (which led to the execution of this Lease by Landlord), and so as to insure that Landlord shall incur no expense with respect to the riverboat gaming enterprise of Tenant, as Tenant agreed to so do under the Proposal, Tenant agrees (i) that any payments made by it to Landlord on or before June 30, 1994 which might under prior agreements have been a credit against Minimum Net Rent, shall not be so deemed and Landlord shall not be obligated to credit such payments or any part thereof against monies due to Landlord hereunder; and (ii) that beginning on July 1, 1994 and continuing through the Opening Date or the Termination Date, whichever first occurs, Tenant shall pay monthly interim fixed rent ("Interim Fixed Rent") to Landlord at the rate of Twenty-Five Thousand and NO/100 Dollars (\$25,000.00) per calendar month, payable in advance on the first day of each such calendar month, three-fifths (3/5) of which sum, as so paid, shall on Opening Date be credited against Minimum Net Rent due hereunder. Tenant shall have no further liability to Landlord for any such Landlord expenses.

Section 2.03. MINIMUM NET RENT. Subject to credit therefor under Sections 2.02, 2.04 and 2.13 hereof, beginning on the Opening Date and continuing during the remainder of the Term and any renewal thereof (as adjusted under Section 2.04 with respect

thereto), Tenant shall pay to Landlord a minimum net annual rent, over and above the other payments to be made by Tenant as hereinafter provided, at the rate of Two Million and NO/100 Dollars (\$2,000,000.00) per year (as the same may be adjusted during any renewal term hereof). Such minimum net rental (the "Minimum Net Rent") shall be paid in equal annual installments of Two Million and NO/100 Dollars (\$2,000,000.00) each, in advance, on the Opening Date and on the date of each and every annual anniversary of the Opening Date thereafter.

Section 2.04. PARTIAL MONTH. If the Commencement Date and/or the Opening Date shall occur on any day other than the first day of a calendar month, Tenant shall pay Landlord on the Commencement Date and receive a credit on the Opening Date, as applicable, of the proportionate amount of Interim Fixed Rent accrued for the balance of such current calendar month.

Section 2.05. PERCENTAGE RENT. Beginning with the Opening Date and continuing throughout the entire remaining Term of this Lease and any renewal thereof, pursuant to the terms of Section 2.07 hereof Tenant shall pay to Landlord as minimum percentage rent (the "Percentage Rent") a sum of money equal to three and one quarter percent (3 1/4%) of Gross Revenues (as defined herein) less Minimum Net Rent paid hereunder. As used herein, the term "Gross Revenues" shall mean the sum of "adjusted gross receipts" as such term is defined under the Missouri Gaming Laws of the Revised Statutes of Missouri, plus all revenues from admissions, sales of food, beverages, merchandise, services, parking charges, and all other business endeavors at the Demised Premises and/or Tenant's riverboat gaming enterprise as are derived from use of the Demised Premises and/or operation of Tenant's riverboat gaming enterprise (including any parking facilities or concessions operated with respect thereto) by Tenant or any licensee, sublessee, franchisee or other operator of all or any portion of any such business endeavors, on or in connection with all or any portion of the Demised Premises or the Easements.

Section 2.06. OBLIGATION TO OPERATE. At all times from and after the Opening Date during the Term of this Lease (including any validly exercised renewals of the original or any extended term hereof), Tenant will continuously use and occupy the Demised Premises and operate its riverboat gaming enterprise in connection therewith in good faith and in such a manner as shall assure the transaction of a maximum volume of business in and at the Demised Premises and from said riverboat gaming enterprise. If Tenant shall fail to cause its said riverboat gaming enterprise to be operated as required under the immediately preceding sentence, then, in addition to any other remedy available to Landlord under this Lease, Tenant shall pay to the Landlord in lieu of Percentage Rent and in addition to any other Rent payable hereunder, and as liquidated damages for such failure to so operate, a sum equal to fifty percent (50%) of the then applicable Minimum Net Rent applicable to each day or portion thereof during which Tenant shall fail to so operate (e.g. if not operating for forty (40) days, 40/365th of 50% of the then applicable Minimum Net Rent as

Percentage Rent for such forty (40) days). Notwithstanding the foregoing, solely for the purposes of this Section 2.06 Tenant's failure to so operate shall be deemed unavoidable and not a failure to so operate, if and so long as non-operation shall be directly caused by fire or other casualty, national emergency, condemnation, enemy action, civil commotion, strikes, lockouts, or national defense pre-emptions, acts of God, energy shortages, changes in the Missouri law which prohibits the continuation of Tenant's business, changes in the Kansas City, Missouri gaming industry which make Tenant's gaming operations unprofitable for a continuous period of one (1) year or more, or any other similar causes beyond the reasonable control of Tenant, and provided further that Tenant shall continually thereafter use its diligent best efforts to alleviate the cause for such cessation of operation and commence operation as soon thereafter as is practicable.

Section 2.07. QUARTERLY STATEMENT/PAYMENT OF PERCENTAGE RENT. Tenant shall deliver to Landlord, within thirty (30) days after the end of each third month of the Term of this Lease after Opening Date, a written statement, in form reasonably acceptable to Landlord, certified to as true, complete and accurate by an authorized officer of Tenant, setting out its Gross Revenues during the immediately preceding three (3) month period ("Tenant's Quarterly statement"). A similar statement, certified as correct by Tenant's chief financial officer shall be delivered to Landlord within thirty (30) days after each anniversary of the Opening Date ("Tenant's Annual Statement"). Tenant shall pay any Percentage Rent due, based on Tenant's Quarterly Annual Statement, within thirty (30) days after the end of the quarter or year reported in Tenant's Quarterly or Annual Statement, which statement reflects that any Percentage Rent is due hereunder, as a result of 3-1/4% of Gross Revenues during the total period of time reflected therein exceeding the Minimum Net Rent due for the 12-month period of time as to which said Quarterly or Annual Statement relates.

Section 2.08. ACCOUNTING RECORDS AND AUDITING RIGHTS.

2.08.1 Accounting Records. Tenant shall maintain at the Demised Premises or at a central accounting location maintained in the City, and identified to Landlord upon request, account records and procedures complying with generally accepted accounting principles consistently applied, as defined by the American Institute of Certified Public Accountants ("AICPA") and the Financial Accounting Standards Board ("FASB"); provided, however, that such principles shall comply in all respects and conform to all rules, regulations and requirements of the Gaming Commission of the State of Missouri or any similar body established in Missouri relating to accounting principles for the determination of adjusted gross receipts of Tenant, so as to enable Tenant to calculate, and Landlord to verify, any Percentage Rent due under this Lease. Tenant shall preserve Tenant's said books and records relating to each calendar year for at least three (3) years after the end of such calendar. If at the conclusion of such three-year period, a dispute is pending between Landlord and Tenant regarding the amount

of Percentage Rent due, then Tenant shall continue to preserve such records pending the final disposition of such dispute.

2.08.2 Audit Procedures: Within (and in no event later than) seventy-five (75) days after the end of each calendar year of Tenant, Tenant shall cause the certified public accountant then regularly auditing Tenant's books and records (which CPA shall be licensed in Missouri and shall be a member of AICPA) to audit Tenant's (and/or any subtenant's, licensee's, franchisee's or concessionaire's) books and records relevant to the calculation of Rents and other payments and Gross Revenues reported by Tenant and/or which should have been reported by Tenant during its preceding calendar year and to certify to Landlord the correctness of same and the compliance thereof with the definitions and requirements of this Lease. Tenant shall provide to Landlord, at the time of filing thereof, copies of all financial reports and tax returns furnished to the State of Missouri and/or the Gaming Commission thereof in connection with the determination of Tenant's taxable gaming revenue and/or adjusted gross receipts. Further, if Tenant shall fail to so provide to Landlord such certification and/or copies as and when due hereunder or if Landlord shall desire to audit such statement(s), Landlord, in conjunction with the City Auditor and Director of Finance for the City, shall have the right to audit the books and records of Tenant with respect to Percentage Rent or other payments provided for in this Lease at any time upon reasonable notice; provided that Landlord agrees to exercise this audit right not more frequently than once per fiscal year. Any such audit shall be performed in accordance with generally accepted auditing standards, during ordinary business hours and without unreasonably interfering with Tenant's business. If such certification was not provided or if any such audit reveals that Gross Revenue or any portion of Percentage Rent due hereunder was understated, then within thirty (30) days after receipt of the audit with appropriate backup documentation, Tenant shall pay to Landlord the additional Percentage Rent due on account of the audit or audit corrections. Any adjusting payment due on account of previous underpayment shall bear interest at the Interest Rate (as defined herein) from the date it would have been paid had Tenant's Quarterly Statement been correct, until the date actually paid. If such certification was not so provided or if Percentage Rent reported therein was understated by more than two percent (2%) for any audited period of time, then Tenant shall pay the reasonable cost of the audit showing same and/or disclosing such understatement; otherwise the audit shall be conducted at Landlord's expense.

Section 2.09. NET LEASE. It is the purpose and intent of Landlord and Tenant that this is a net lease and that from and after the Opening Date, the Minimum Net Rent (and any Percentage Rent and/or Additional Rent) shall, except as herein otherwise provided, be absolutely net to Landlord, so that this Lease shall thereafter yield, net, to Landlord, the Minimum Net Rent specified in section 2.03 hereof in each remaining year during the Term and any renewal thereof, together with the Percentage Rent provided for in Section 2.05 hereof, and the Additional Rent provided for in

Section 2.10 hereof, and that all costs, expenses and obligations of every kind and nature whatsoever relating to the Demised Premises and/or the operation of Tenant's riverboat gaming enterprise thereon and/or in connection therewith, except as herein otherwise provided, which may arise or become due during or out of the original or any renewal Term of this Lease, shall be paid by Tenant, and that Landlord shall be protected, defended, indemnified and held harmless by Tenant from and against the payment of same or any obligation to pay the same.

Section 2.10. ADDITIONAL RENT. Except as herein otherwise provided, Tenant shall also pay without notice except as may be required in this Lease, and without abatement, deduction or setoff, as additional rent ("Additional Rent"), all sums, Impositions (as defined in Article III hereof), costs, expenses and other payments which Tenant assumes or agrees to pay hereunder, and, in the event of any non-payment thereof, Landlord shall have all the rights and remedies provided for herein or by law.

Section 2.11. ABSOLUTE RIGHT TO RENT. Rent due hereunder shall be paid to Landlord without notice or demand and without abatement, deduction or set-off, except as herein otherwise specifically provided.

Section 2.12. ABSOLUTE MINIMUM RENT. Notwithstanding anything to the contrary contained herein, the Minimum Net Rent shall never be less than \$2,000,000.00 per year (subject to sums credited under Section 2.03, 2.04 and 2.13 hereof as rent received) and the amount of Additional Rent due hereunder shall always reflect the expenses incurred or made upon which Additional Rent is due.

Section 2.13. GRANT AND CREDIT AGAINST RENT. As additional consideration to Landlord for Landlord's entering into this Lease and the Development Agreement, Tenant shall make a grant to Landlord in the amount of TEN MILLION DOLLARS (\$10,000,000.00), payable in all events as follows: ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00) on the Opening Date, and a like sum of ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00) on the anniversary of the Opening Date in each of the next nine (9) consecutive years after the year in which the Opening Date occurs. This grant, in the aggregate, shall be known as the "Riverfront Park Grant". Said Riverfront Park Grant, along with Minimum Net Rent payable during the initial ten (10) year term hereof, shall be utilized, *inter alia*, for completion of the work described in Exhibit I of the Development Agreement (or for bond financing payments due with respect thereto), and for the purposes set out in Exhibit D attached hereto.

Section 2.14. Bond Issue. Tenant acknowledges that Landlord intends to employ the Rents and Riverfront Park Grant in part to cover debt service under and other costs of a tax exempt revenue bond issue (the "Bond Issuance") utilizing the Tenant's credit and its payment, obligations hereunder in order to fund the costs of the work described in Exhibit I to the Development Agreement. Tenant

further acknowledges that its obligations hereunder are not subordinate to any of its most senior or other debts or obligations and that Landlord has not subordinated this Lease and/or Tenant's obligation hereunder to any other debt or obligations of Tenant. Tenant also acknowledges that in order to complete such work, it is necessary for Landlord to have net proceeds totalling in the aggregate not less than \$20,000,000.00, in addition to amounts sufficient to fund interest reserves and to pay costs of issuance of the bonds, available to it as a result of the sale of such bonds.

In addition, should said net proceeds be less than \$20,000,000.00, Tenant shall on Opening Date waive that portion of the credit to be given Under Section 2.02 of this Lease which is equal to the amount by which \$20,000,000.00 exceeds the actual net proceeds of the Bond Issuance (provided however, such waiver shall not exceed the sum of \$195,000.00).

As additional consideration for Landlord entering into this Lease with Tenant, Tenant agrees, that, on the Commencement Date, it shall pay Landlord in lieu of the anticipated cost of a forward interest rate swap or other derivative or financing device selected by Landlord, the sum of Three Hundred Fifty Thousand Dollars (\$350,000.00).

ARTICLE III Payment of Taxes, Assessments, Etc.

Section 3.01. IMPOSITIONS. Tenant shall pay or cause to be paid (except as in Section 3.03 hereof provided), before any fine, penalty, interest or cost may be added thereto for the non-payment thereof, all taxes, general and/or special assessments, water, fire line, steam and sewer rents, fees, rates and charges, levies, license and permit fees and all other governmental charges, general and special, ordinary and extraordinary, foreseen or unforeseen, of any kind and nature whatsoever, which at any time on or after the Commencement Date may be assessed, levied, confirmed, imposed upon, and/or become due and payable during the balance, if any, of the original Term or any renewal or extension thereof, out of or in respect of, or become a lien on, the Demised Premises, or any part thereof or any appurtenance thereto and/or Tenant's riverboat gaming enterprise (all such taxes, assessments, water, fire line, steam and sewer rents, fees, rates and charges, levies, license and permit fees and other governmental charges being hereinafter referred to as "Impositions", and any of the same being hereinafter referred to as an "Imposition"); provided, however, that

(a) if, by law, any Imposition may, at the option of the taxpayer, be paid in installments, Tenant may pay the

same in equal installments over the period of time allowed under the terms thereof, provided, however that Tenant shall pay all such installments remaining unpaid at the expiration or earlier termination of the Term of this Lease or any properly exercised renewal or extension thereof; and

(b) all Impositions for the calendar or tax years in which the Commencement Date occurs and the Term or any renewal term ends shall be apportioned so that Tenant shall pay only those portions thereof which correspond with the portion of said calendar years as are within the Term and/or any renewal or extension thereof and are payable by Tenant hereunder.

Section 3.02. FURNISHED RECEIPTS. Tenant, upon request of Landlord, shall furnish to Landlord or, if requested by Landlord, to City and/or any mortgagee of Landlord, within thirty (30) days after the date when any Imposition would become delinquent, official receipts of payment issued by the appropriate taxing authority, or other evidence satisfactory to Landlord, City and/or such mortgagee, evidencing the payment thereof.

Section 3.03. SEEKING OF REDUCTION OF IMPOSITIONS BY TENANT. Tenant shall be entitled to seek a reduction in the valuation of the Demised Premises for tax purposes and to contest in good faith by appropriate proceedings, at Tenant's sole cost and expense, and at no cost or expense to Landlord, the amount, rate, or validity in whole or in part of any Imposition, and if permitted by law may defer payment thereof, so long as no interest or penalty shall accrue thereon or with respect thereto or provided that such interest or penalty is deposited with Landlord or such taxing authority by Tenant to protect Landlord's interest if Tenant does not prevail in such proceeding.

Section 3.04. JOINING OF LANDLORD. Landlord shall not be required to join in any proceedings to contest any Imposition unless the provisions of any law, rule or regulation at the time in effect shall require that such proceedings be brought by or in the name of Landlord, in which event Landlord shall join in such proceedings or permit the same to be brought in its name. Landlord shall not ultimately be subjected to any liability for the payment of any costs or expenses in connection with any such proceedings, and Tenant shall protect, defend, indemnify and hold Landlord harmless from any such costs and expenses. Tenant shall be entitled to any refund of any Imposition and penalties or interest thereon which are recovered by Landlord and which have already been paid by Tenant, or which have been paid by Landlord and previously reimbursed in full by Tenant.

Section 3.05. PRIMA FACIE EVIDENCE. The certificate, advice, receipt or bill of the appropriate official designated by law to make or issue the same or to receive payment of any Imposition or of non-payment of such Imposition shall be prima facie evidence that such Imposition is due and unpaid or has been paid at the time of the making or issuance of such certificate, advice, receipt or bill.

Section 3.06. UTILITIES. During the Term hereof, and any renewals thereof, Tenant shall be responsible for obtaining, maintaining, supplying and paying for all utilities required for operation of its business on and in connection with the Demised Premises and shall make all payments for or with respect to the

same on a timely basis. Such payments as and when due shall also be considered "Impositions" hereunder.

ARTICLE IV Surrender

Section 4.01. REMOVAL OF PERSONALTY AND FIXTURES. The Riverboat Gaming Facility, together with its contents and including trade fixtures and personalty shall, until termination of this Agreement, be the absolute property of the Tenant. Following the termination of this Agreement, Tenant shall have a period of sixty days (60) in which to remove all or part of the furniture, trade fixtures and business equipment within the Riverboat Gaming Facility ("Removal Period"). Tenant's furniture, trade fixtures and business equipment shall include and be limited to the following: (1) all gaming equipment including slot machines, table games (Blackjack, Craps, Poker, Mini Baccarat), slot bases, slot systems (tracking, data and communications), cards, chips, cups, etc.; (2) All gaming-related furnishings, fixtures and equipment including tables, chairs and stools; (3) unattached casino bar equipment and related items (e. g. mixers and blenders), office furniture and portable panel systems and equipment other than that located in general business offices; (4) All computers and equipment other than that located in general business offices (5) All interior and exterior signage (attached and freestanding); (6) All security and surveillance and specialized audio visual equipment and systems related to casino operation only and not to any portion of the Demised Premises as a structure; (7) All (i) other special decorative elements and (ii) advertising elements, related to or expressing the brand name of Tenant or concerning Tenant's corporate identity; (8) reader or other message type boards whether installed on the interior or exterior and (9) special decorative doors, windows or lighting fixtures but only if Tenant on such removal replaces such items with items of comparable functional and decorative quality. In addition, Tenant will reasonably repair any material damage to the Riverboat Gaming Facility caused by Tenant's exercise of its right to remove Tenant's Personalty and Fixtures. Provided, however, Tenant shall not have the right to remove any: (i) wiring or other apparatus or devise (including that for general building security systems) that is installed within the walls, floors or ceilings of the Riverboat Gaming Facility on a permanent or semi-permanent basis, or (ii) signage that is of a generic nature such as that for exits and restrooms. All of the above is referred to herein as "Tenant's Personalty and Fixtures". Following Removal Period and subject to Tenant's absolute right to remove Tenant's Personalty and Fixtures, any furniture, trade fixtures and business equipment remaining within the Riverboat Gaming Facility following the Removal period shall become the property of Landlord and Tenant shall transfer all title and interest in the Riverboat Gaming Facility and remaining personalty, equipment and fixtures to Landlord.

Section 4.02. SURRENDER AND DELIVERY OF DEMISED PREMISES. Except as is herein otherwise provided, Tenant shall on the last day of the Term hereof, or any valid renewal or extension thereof,

or upon the date of any earlier termination of this Lease, well and truly surrender and deliver up the Demised Premises and the Easements to the possession and use of Landlord without fraud or delay and in good order, condition and repair, except for reasonable wear and tear after the last necessary repair, replacement, restoration or renewal made by Tenant pursuant to its obligations, or the obligations of any of its subtenants, franchisees, licensees or invitees hereunder, and the transfer to Landlord of any reserve accounts with respect thereto, free and clear of all lettings and occupancies other than subleases then immediately terminable at the option of the Landlord or subleases to which Landlord shall have specifically consented, and free and clear of all liens and encumbrances other than those, if any, presently existing, or hereafter created and specifically consented to in writing by Landlord, without any payment or allowance whatever by Landlord for or on account of any improvements which may then be on the Demised Premises.

Section 4.03. PERSONAL PROPERTY NOT REMOVED. Any personal property of Tenant which shall remain in or on the Demised Premises after the expiration of the Removal Period may, at the option of Landlord, be deemed to have been abandoned by Tenant and either may be retained by Landlord as its property or be disposed of, without accountability, in such manner as Landlord may see fit, or if Landlord shall give written notice to Tenant to such effect, such property shall be immediately removed by Tenant at Tenant's sole cost and expense. Upon entering into any agreement with any sublessee, licensee, franchise or other operator which occupies or is entitled to place any personal property on or in the Demised Premises, Tenant shall advise Landlord of same (appropriately redacted by Tenant to protect proprietary or confidential information) and furnish to Landlord a copy of the agreement between Tenant and such party, so that Landlord may notify such third party of Landlord's right to any personal property remaining in or on the Demised Premises after the end of the Renewal Period.

Section 4.04. LANDLORD NOT RESPONSIBLE. Landlord shall not be responsible for any loss or damage occurring to any personal property owned by Tenant or any sublessee, licensee or franchisee of Tenant or any of their respective suppliers, customers or invitees.

Section 4.05. SURVIVAL. The provisions of this Article IV shall survive any termination of this Lease.

ARTICLE V Insurance

Section 5.01. FULL REPLACEMENT COST INSURANCE. Tenant, at its sole cost and expense and at no cost or expense to Landlord, shall keep all of the improvements on the Demised Premises (now or hereafter existing) or used in connection therewith including, without limitation the Riverboat Gaming Facility, insured, during the Term and each renewal and extension thereof, against any loss or damage by fire, flood, earthquake and all other casualties and

perils, and including, without limitation, all other perils as are included within what is commonly known as "all risk coverage" for any improvements on the Demised Premises, as the same shall from time to time be customary, for premises similarly situated in Kansas City, Jackson County, Missouri, with full replacement cost insurance, in amounts sufficient to prevent City, Landlord or Tenant from being or becoming a co-insurer within the terms of the policy or policies in question and in no event less than the full replacement cost value thereof, exclusive of the cost of foundations, excavations, and footings below the lowest basement floor, and without any deduction being made for depreciation. Such full replacement cost value shall be determined from time to time, but not more frequently than once in any twelve (12) consecutive calendar months, at the request of Landlord, by an appraiser, architect, ship builder and/or contractor or one or more of same, as applicable, who shall be acceptable to Landlord in its sole discretion. No omission on the part of Landlord to request any such determination shall relieve Tenant of its obligation hereunder.

Section 5.02. OTHER INSURANCE. Tenant, at its sole cost and expense and at no cost or expense to Landlord, shall maintain during the Term and all renewals thereof:

(a) for the mutual benefit of City, Landlord and Tenant, general commercial (comprehensive) public liability insurance, and specifically including but not being limited to indemnity insurance against claims for personal injury, bodily injury, death or property damage, occurring upon, in or about or adjacent to the Demised Premises, and/or any adjacent public improvements, garage, bridge, walkway or elevators, and on, in or about the adjoining sidewalks, walkways and passageways, including, without limitation, insurance protecting against claims for personal injury, bodily injury or claim, death or property damage resulting directly or indirectly from ownership, use, occupancy or maintenance thereof including any change, alteration, improvement or repair thereof, to afford protection for at least \$200,000,000.00 to any one individual per occurrence combined single limit and \$200,000,000.00 in the aggregate; and

(b) rental value insurance against loss of rental or other income to be derived by Landlord from the operation of Tenant's business in connection with the Demised Premises due to the risks referred to in Section 5.01 hereof (including those embraced by "all perils coverage") in an amount sufficient to prevent Tenant from becoming a co-insurer within the terms of the policy or policies in question, but in no event in an amount or amounts less than the aggregate amount of the Minimum Net Rent and Percentage Rent, the Additional Rent payable hereunder for a period of one (1) year; and Tenant hereby assigns to Landlord the proceeds of such insurance so

that in the event the improvements on the Demised Premises shall be destroyed or seriously damaged, such proceeds shall be held as security for the payment of such sums due hereunder until the restoration of such improvements and, as Tenant shall make payment of such sums to Landlord, Landlord shall, if Tenant shall not then be in default under this Lease, pay out to Tenant from said amount the sums which shall have been so paid by insurance proceeds. Tenant may, at its election, carry such insurance as a coverage contained in a business interruption insurance policy; and

(c) such other insurance, and in such amounts, as may from time to time be reasonably required by Landlord against other insurable hazards and liabilities which at the time are customarily insured against in the case of premises and/or business operations similarly situated in the State of Missouri, due regard being or to be given to the type of improvements and the construction, use and occupancy thereof, including but not being limited to workers' compensation and other comparable insurance; and

(d) with respect to any construction or remodeling of improvements on the Demised Premises, Tenant shall provide or shall require that each contractor performing such work shall carry and maintain, at no cost or expense to Landlord, with customary deductibles:

(i) commercial (comprehensive) liability insurance, including (but not limited to) contractor's liability coverage, contractual liability coverage, completed operations coverage, broad form property damage endorsement and contractor's protective liability coverage, to afford protection, with respect to personal injury, bodily injury, death or property damage of not less than \$1,000,000.00 per occurrence combined single limit; and

(ii) comprehensive automobile liability insurance with limits for each occurrence of not less than \$1,000,000.00 combined single limit; and

(iii) workers' compensation insurance or similar insurance in form and amounts required by law, including employer's liability in the amount of not less than \$1,000,000.00 each occurrence, \$1,000,000.00 by disease and \$1,000,000.00 each person by disease;

(iv) Builder's risk insurance, insuring the Demised Premises and related property under construction or remodeling of improvements thereon with limits previously approved by Landlord; and

(v) umbrella and excess umbrella insurance with limits previously approved by Landlord.

(e) The amount of the coverages set out herein shall be subject to increase or decrease at the time of each renewal of this Lease in accordance with Consumer Price Index provisions of Section 19.01 below.

Section 5.03. TYPE OF POLICIES.

A. All insurance provided for in this Article shall be effected and continuously maintained under valid and enforceable policies issued by insurers of recognized responsibility licensed to do business in the State of Missouri, or be a recognized insurance facility, in either case acceptable to Landlord, which acceptance shall not be unreasonably withheld. Upon the execution of this Lease, and thereafter not less than fifteen (15) days prior to the expiration dates of the expiring policies theretofore furnished pursuant to this Article V, originals or binders of the policies (or, in the case of general public liability insurance, certificates of the insurers) bearing notations evidencing the payment of premiums in full, or accompanied by other evidence satisfactory to Landlord of such payment, shall be delivered by Tenant to Landlord.

B. Nothing in this Article V shall prevent Tenant from taking out insurance of the kind and in the amounts provided for under this Article V under a blanket insurance policy or policies covering properties in addition to the Demised Premises, provided, however, that any such policy or policies of blanket insurance (i) shall specify therein, or Tenant shall furnish Landlord with a written statement from the insurers under such policy or policies specifying, the amount of the total insurance allocated to the Demised Premises, which amounts shall not be less than the amounts required by Sections 5.01 and 5.02 hereof and (ii) with respect to property coverage, such amounts so specified shall be sufficient to prevent any one of the insureds from becoming a co-insurer within the terms of the applicable policy or policies, and provided further, however, that any such policy or policies of blanket insurance, as to the Demised Premises, shall otherwise comply as to endorsements and coverage with the provisions of this Article.

Section 5.04. NAMED INSUREDS.

A. All policies of insurance provided for in this Article V shall name City, Landlord and Tenant as the insured, as their respective interests may appear, and also each fee and/or each leasehold mortgagee of the Demised Premises, when requested, as the interest of any such mortgagee may appear, by standard mortgagee clause, if obtainable, provided that any such mortgagee shall agree that the proceeds of such insurance shall be applied in accordance with this Lease. In case of any particular casualty resulting in damage or destruction not exceeding \$500,000.00 in the aggregate, the loss under such policies shall be adjusted by Tenant and the insurance companies. In case of such damage or destruction in

excess of \$500,000.00, the loss shall be adjusted with the insurance companies by Tenant and Landlord. Notwithstanding the foregoing, Tenant shall adjust any loss with respect to the Riverboat Gaming Facility unless an Event of Default shall exist and be uncured on the date of any such loss, in which case any such loss shall be adjusted by Landlord.

B. All such policies shall provide that the loss, if any, thereunder shall be adjusted and paid as hereinabove provided. Each such policy shall contain a provision that no involuntary act or omission of Tenant or anyone operating under rights granted by it shall affect or limit the obligation of the issuing insurance company to so pay the amount of any loss sustained.

Section 5.05. CANCELLATION NOTICE. Each such policy or certificate therefor issued by the insurer shall contain an agreement by the insurer that such policy shall not be canceled or amended without at least thirty (30) days prior written notice to Landlord and wording such that the insurer must notify Landlord of any such impending cancellation or amendment.

ARTICLE VI

Landlord's Right to Perform Tenant's Covenants

Section 6.01. RIGHT TO MAKE PAYMENTS. If Tenant shall at any time fail to pay any Imposition or utility cost or charge in accordance with the provisions of Article III hereof, or to take out, pay for, maintain or deliver any of the insurance policies or certificates therefor as provided for in Article V hereof, or shall fail to make any other payment or perform any other act on its part to be made or performed under this Lease, then Landlord, after ten (10) days notice to Tenant (or without notice in case of an emergency) and Tenant's failure to cure the same with the time period, if any, allowed for such cure, and without waiving or releasing Tenant from any obligation of Tenant contained in this Lease or from any default by Tenant hereunder and without waiving Landlord's right to take such action as may be permissible under this Lease as a result of such default, may (but shall be under no obligation to):

- (a) pay any Imposition or other charge payable by Tenant pursuant to the provisions of Article III hereof, or
- (b) take out, pay for and maintain any of the insurance policies provided for in Article V hereof, or
- (c) make any other payment or perform any other act on Tenant's part to be made or performed under this Lease,

and may enter upon the Demised Premises for any such purpose, and take all such action thereon, as may be necessary therefor or in connection therewith.

Section 6.02. REPAYMENT BY TENANT. All sums so paid by Landlord under this Article VI and or as a result of the exercise

by Landlord of any of its rights under this Article VI, and all costs and expenses incurred by Landlord with respect thereto or in connection therewith, including, without limitation, reasonable attorneys' fees in connection with the performance of any such act, together with interest thereon at the Interest Rate from the date of such payment or incurrence by Landlord of such cost and expense, shall constitute Additional Rent payable by Tenant under this Lease and shall be paid by Tenant to Landlord on demand.

ARTICLE VII Repairs and Maintenance of the Demised Premises

Section 7.01. REPAIRS. Throughout the Term of this Lease and any renewal thereof, Tenant shall, at its sole cost and expense and at no cost or expense to Landlord, take good care of the Demised Premises and all improvements and additions thereon or thereto, including, without limitation, all alleyways, walkways, passageways, sidewalks, curbs and streets, parking facilities and bridges adjoining the same and shall keep the same in good order and condition, except for reasonable wear and tear after the last necessary repair, replacement, restoration or renewal made by Tenant pursuant to its obligations hereunder, and shall make all necessary repairs thereto, interior and exterior, structural and non-structural, ordinary and extraordinary, and foreseen and unforeseen. All repairs, replacements, restorations and renewals made by Tenant shall be at least equal in quality and class to the original work with respect thereto.

Section 7.02. MAINTENANCE. Tenant shall at its sole cost and expense, and at no cost or expense to Landlord, put, keep and maintain all portions of the Demised Premises and the sidewalks, curbs, streets, bridges, alleyways, walkways and passageways, bridges and parking facilities adjoining the same in a clean and orderly condition, free of dirt, rubbish, snow, ice and unlawful obstructions. Tenant shall also provide for structural maintenance, repair and replacement of the portions of the Demised Premises normally requiring same.

Section 7.03. NO SERVICES FURNISHED. Landlord shall not be required to furnish to Tenant any utilities, facilities or services of any kind whatsoever during the Term hereof or any renewal thereof, such as, but not limited to, water, steam, heat, gas, telephone, cable televisions, hot water, electricity, light, and/or power. Landlord shall in no event be required to make any alterations, rebuildings, replacements, changes, additions, improvements or repairs during the Term of this Lease or any renewal thereof.

ARTICLE VIII General and Specific Compliance with Laws, Insurance, Development Agreement and Exhibits Thereto, Etc.

Section 8.01. GENERAL COMPLIANCE. Throughout the Term of this Lease and any renewal thereof, Tenant, at its sole cost and

expense and at no cost or expense to Landlord, shall promptly comply with all present and future laws, ordinances, orders, rules, regulations and requirements of all federal, state and municipal governments, departments, commissions, boards and officers, and all other body or bodies exercising similar functions, foreseen or unforeseen, ordinary as well as extraordinary, which may be applicable to the Demised Premises and the Easements or any portion thereof, and/or the sidewalks, alleyways, walkways, passageways, curbs, streets, parking facilities and bridges adjoining the same or to the use or manner of use of the Demised Premises and the Easements or any portion thereof, or the owners or occupants thereof, including but not limited to the operation of any Riverboat Gaming Facility used in connection therewith and the operation of any riverboat gaming enterprise in connection with the Demised Premises and the Easements, whether or not such compliance is required by reason of any condition, event or circumstance existing prior to or after the commencement of the Term or any renewal thereof. Provided, however, that nothing in this Lease shall be construed to invalidate the Frustration of Purpose provisions found in Section 5.7 of the Development Agreement, which provisions are hereby incorporated herein by reference.

Section 8.02. SPECIFIC COMPLIANCE. Notwithstanding the foregoing or anything else contained in this Lease to the contrary, and not intending to limit the same, Tenant agrees that after its improvement and/or construction of improvements on the Demised Premises, or the modification of same, Tenant shall do and/or comply with each and all of the following:

Section 8.02.1 Building Laws. Such improvements and their use by Tenant, its sublessees, franchisees, licensees and its and/or their respective agents, employees, contractors or invitees, shall comply fully with all environmental, air quality, zoning, flood plain, planning, subdivision, building, health, labor, discrimination, fire, traffic, safety, wetlands, shoreline and other governmental and regulatory rules, laws, ordinances, statutes, codes and requirements applicable to the Demised Premises or any portion thereof, including, without limitation, the Fair Housing Act of 1968 (as amended) and the Americans with Disabilities Act of 1990 (collectively, the "Building Laws"). Tenant shall obtain such final certificates as may be required or customary and evidencing compliance with all building codes and permits, and approval of full occupancy of such improvements (as improved) and of all installations therein or improvements thereto. Tenant shall cause the Demised Premises to be continuously in compliance with all Building Laws (as the same may be amended or enacted from time to time). Tenant agrees to protect, defend, (with counsel reasonably satisfactory to Landlord) indemnify and hold City and Landlord and Landlord's Commissioners, officers, employees, contractors and agents harmless from and against all liability threatened against or suffered by them or either of them by reason of a breach by Tenant of any of the foregoing representations and warranties contained herein. The foregoing indemnity shall include the cost of all alterations to the Demised Premises (including, without limitation, all architectural,

engineering, legal and accounting costs), all fines, fees and penalties, and all legal and other expenses (including, without limitation, reasonable attorneys' fees), incurred in connection with the Demised Premises or any portion thereof, being in violation of any Building Law and for the cost of collection of the sums due under this indemnity.

Section 8.02.2 Toxic/Hazardous Substances; Tenant's Responsibilities. With respect to environmental liabilities and risks, the following shall apply:

i. Definitions. "Toxic or Hazardous Substances" shall be interpreted broadly to include, but not be limited to, any material or substance that is defined or classified under federal, state or local laws as: (a) a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §9601(14), or §311 of the Federal Water Pollution Control Act, 33 U.S.C. §1321, as now or hereafter amended; (b) a "hazardous waste" pursuant to §1004 or §3001 of the Resource Conservation and Recovery Act, 42 U.S.C. §6921, as now or hereafter amended; (c) a "toxic pollutant" under §307(1)(a) of the Federal Water Pollution Control Act, 33 U.S.C. §1317(1)(a), as now or hereafter amended; (d) a "hazardous air pollutant" under §112 of the Clean Air Act, 42 U.S.C. §7412, as now or hereafter amended; (e) a "hazardous material" under the Hazardous Material Transportation Act, 49 U.S.C. §1802(2), as now or hereafter amended; (f) toxic or hazardous pursuant to regulations promulgated now or hereafter under any of the aforementioned laws; or (g) presenting a risk to human health or the environment under other applicable federal, state or local laws, ordinances or regulations, as now or as may be passed or promulgated in the future. "Toxic or Hazardous Substances" shall also mean any substance that after release in the environment and upon exposure, ingestion, inhalation or assimilation; either directly from the environment or directly by ingestion through food chains, will or may reasonably be anticipated to cause death, disease, behavior abnormalities, cancer or genetic abnormalities. "Toxic or Hazardous substance" specifically includes, but is not limited to, asbestos, polychlorinated biphenyls (PCBs), petroleum and petroleum based derivatives, and urea formaldehyde.

ii. Use Restrictions/Compliance with Applicable Laws. Tenant, its sublessees, franchisees, licensees, and its and their respective agents, employees, contractors and invitees, shall not use the Demised Premises in a manner that violates any applicable federal, state or local law, regulation or ordinance, including, but not limited to, any such law, regulation or ordinance pertaining to air and water quality, the handling, transportation, storage, treatment, usage or disposal of Toxic or Hazardous

Substances, air emissions, other environmental matters or any zoning and/or other land use matters. Tenant shall not cause or permit the release or disposal of any Toxic or Hazardous Substance on or from the Demised Premises. Tenant shall obtain prior written approval from Landlord before causing or permitting any Toxic or Hazardous Substance to be brought upon, kept or used in or about the Demised Premises by Tenant, its sublessees, franchisees, licensees, and/or its or their respective agents, employees, contractors or invitees.

iii. Representations and Warranties. Tenant represents and warrants to Landlord that:

- a. Tenant is financially capable of performing and satisfying in full its obligations pursuant to this Lease, including the provisions of this Article.
- b. Tenant is not in violation of, or subject to, any existing, pending or threatened investigation by any governmental authority under any applicable federal, state or local law, regulation or ordinance pertaining to air and water quality, the handling, transportation, storage, treatment, usage or disposal of Toxic or Hazardous Substances, air emissions, other environmental matters, or any zoning or other land use matter.
- c. Prior to the signing of this Amended and Restated Lease Agreement, Tenant has made 'all appropriate inquiry,' into the previous ownership and uses of the Demised premises within the meaning of the Comprehensive Environmental Response, Compensation and Liability Act, as amended, or any other environmental law described or referred to herein. Based on the conclusions reached by its environmental consultant after performing a site assessment and based on Landlord's representations and warranties herein, Tenant does not know and has no reason to know or suspect that any Toxic or Hazardous Substance has been disposed of or released on, in or at the Demised Premises.
- d. Tenant's intended use of the Demised Premises will not result in the disposal or release of any Toxic or Hazardous Substance on or to the Demised Premises or adjacent river.
- e. Tenant does not and will not use any Toxic or Hazardous Substance on the Demised Premises or

adjacent river without the prior written approval of Landlord.

- f. Tenant will not change its intended use of the Demised Premises or the nature of its said operations in connection therewith without prior notice to, and written approval of, Landlord.

iv. Indemnities and Financial Assurances. Tenant agrees to protect, indemnify, defend (with counsel reasonably satisfactory to Landlord) and hold City and Landlord and all of their respective commissioners, officers, employees, contractors and agents harmless from any and all claims, judgments, damages, penalties, fines, expenses, liabilities and losses arising during or after the Term of this Lease or any renewals thereof, out of or in any way relating to the presence, release or disposal of any Toxic or Hazardous Substance on or from all or any portion of the Demised Premises or the Easements if such Toxic or Hazardous Substance is proved to be first present after the Commencement Date solely as a result of the actions of Tenant (or its employees, contractors or agents) or a third party or to a breach of the environmental warranties made by Tenant in this Lease. Such indemnity shall include, without limitation, all costs incurred in connection with any Toxic or Hazardous Substance present on or under the Demised Premises or adjacent river as a result of any discharge, dumping or spilling (accidental or otherwise) on the Demised Premises or in the adjacent river after the Commencement Date.

To the extent directly involved with an indemnifiable occurrence described above, the indemnification provided by this Article shall also specifically cover, without limitation, all costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal and restoration work required by any federal, state or local governmental agency or political subdivision or other third party because of the presence or suspected presence of any Toxic or Hazardous Substance in the soil, groundwater, or soil vapor on or under the Demised Premises and/or adjacent river. Such costs may include, but not be limited to, diminution in the value of the Demised Premises, damages for the loss or restriction on use of rentable or useable space or of any amenity of the Demised Premises, sums paid in settlements of claims, attorneys' fees, consultants' fees, and expert fees. The foregoing environmental indemnity shall survive the expiration or earlier termination of this Lease and/or any transfer of all or any portion of the Demised Premises, or of any interest in this Lease.

- v. Notification Requirements. Tenant shall promptly notify Landlord in writing of all spills or releases of any Toxic or Hazardous Substance, all failures to comply with any federal, state, or local law, regulation or

ordinance, all inspections of the Demised Premises and/or adjacent river by any regulatory entity concerning the same, all notices, orders, fines and communications of any kind from any governmental entity or third party that relate to the existence of or potential for environmental pollution of any kind existing on or resulting from the use of the Demised Premises or any portion thereof and/or adjacent river, or any activity conducted thereon, and all responses or interim cleanup action taken by or proposed to be taken by Tenant or any government entity or private party on the Demised Premises or any portion thereof or adjacent river.

Upon request by Landlord, Tenant shall provide Landlord with a written report (a) listing each Toxic or Hazardous Substance that was/is used or stored on the Demised Premises; (b) discussing all releases of any Toxic or Hazardous Substance that occurred or were discovered on the Demised Premises and all compliance activities related to such Toxic or Hazardous Substance or adjacent river, including all contacts with and all requests from third parties for cleanup or compliance; (c) providing copies of all permits, manifests, business plans, consent agreements or other contracts relating to any Toxic or Hazardous Substance executed or requested during the time period requested; and (d) including such other information as may be reasonably requested by Landlord. The report shall include copies of all documents and correspondence related to such activities and written reports of verbal contacts.

vi. Inspection Rights. Landlord, its officers, employees, contractors and agents shall have the right, but not the duty, to inspect the Demised Premises and Tenant's relevant environmental and land use documents upon reasonable notice to Tenant and to perform such tests on the Demised Premises and/or adjacent river as are reasonably necessary to determine whether Tenant is complying with the terms of this Lease. Tenant shall be responsible for paying for any testing that is conducted if it is determined that Tenant is not in compliance with this Lease due to Tenant's or any of its sublessee's, franchisee's or licensee's operations or use of the Demised Premises and/or adjacent river.

Section 8.02.3. Toxic/Hazardous Substances; Landlord Responsibilities.

i. Representations and Warranties. Landlord hereby represents and warrants to Tenant that to the best of its knowledge and based on The Phase II Environmental Report dated November 23, 1994 by Woodward-Clyde Consultants and prepared on behalf of Tenant,:

- (a) No Toxic or Hazardous substance is present on, in, under or migrating onto or from the Demised Premises;
- (b) There has been no release or discharge, or threat of release or discharge, of any Toxic or Hazardous Substance on, in, under or migrating onto or from the Demised Premises;
- (c) The Demised Premises and any previous or current uses and operations concerning the Demised Premises are not in violation of any applicable federal, state or local statute, ordinance, law, regulation, consent decree, administrative order, guidance document, remediation directive, or common law relating to the public health and safety and protection of the environment (hereinafter "Environmental Law");
- (d) Landlord has no actual or constructive knowledge of any notice of any governmental entity or third party claiming that the Demised Premises or any uses of and operations on or of the Demised Premises have resulted in any violation of any Environmental Law;
- (e) No litigation is pending or proposed, threatened, or anticipated with respect to any Toxic or Hazardous Substance at the Demised Premises or any proposed use thereon or thereto; and
- (f) No underground storage tank containing petroleum or any other Toxic or Hazardous substance is or was located on or under the Demised Premises at any time.

ii. Indemnities and Financial Assurances. Landlord agrees to protect, indemnify, defend (with counsel reasonably satisfactory to Tenant), and hold Tenant and all of its officers, employees, contractors and agents harmless from any and all claims, judgments, damages, penalties, fines, expenses, liabilities and losses arising during or after the Term of this Lease or any renewals thereof, out of or in any way relating to (1) the presence, release or disposal of any Toxic or Hazardous Substance on or from all or any portion of the Demised Premises or the Easements, unless such Toxic or Hazardous Substance is proved to be first present after the Commencement Date solely as a result of the actions of Tenant (or its officers, employees, contractors or agents) or a third party; or (2) the breach of the environmental warranties made by Landlord in this Lease; or (3) the underground abandoned oil pipeline identified by Woodward-Clyde Consultants in that certain Phase II Environmental Report dated November 23, 1994, and prepared by Woodward-Clyde on behalf of Tenant, and any related Toxic or Hazardous Substances. To the extent directly

involved within an indemnifiable occurrence described above, the indemnification provided by this Article shall also specifically cover, without limitation, all costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal or restoration work required by any federal, state or local governmental agency or political subdivision or other third party because of the presence or suspected presence of any Toxic or Hazardous Substance in the soil, groundwater, or soil vapor or under the Demised Premises, the Easements and/or adjacent river. Such costs may include, but not be limited to, diminution in the value of the Demised Premises and the Easements, damages for the loss or restriction on use of rentable or useable space or of any amenity of the Demised Premises and the Easements, sums paid in settlement of claims, attorneys' fees, consultants' fees and expert fees. The foregoing environmental indemnity shall survive the expiration or earlier termination of this Lease and/or any transfer of all or any portion of the Demised Premises, the Easements, or of any interest in this Lease.

Section 8.03. COMPLIANCE WITH INSURANCE. Tenant shall likewise observe and comply with the requirements of all insurance policies of public liability, property and all other policies of insurance required to be supplied by Tenant and at any time in force with respect to the Demised Premises or the Easements, whether or not such observance or compliance is required by reason of any condition, event or circumstance existing prior to or after the Commencement Date, and Tenant shall, upon learning of the existence of any violation or any attempted violation of any of the provisions of this Article of this Lease by any other person or entity, take steps, immediately upon knowledge of such violation or attempted violation, to remedy or prevent the same as the case may be.

Section 8.04. COMPLIANCE WITH DEVELOPMENT AGREEMENT. Tenant shall strictly observe and fully comply with all of the requirements, terms and conditions of the Development Agreement and all Exhibits thereto.

Section 8.05. CONTEST OF LAWS. Tenant shall have the right, after prior written notice to Landlord, to contest by appropriate administrative and/or legal proceedings, diligently conducted in good faith, in the name of Tenant or Landlord or both, without cost or expense to Landlord and/or the City, the validity or application of any law, ordinance, order, rule, regulation or requirement of the nature referred to herein, subject to the following:

- a. if by the terms of any such law, ordinance, order, rule, regulation or requirement, compliance therewith pending the prosecution of any such proceeding may legally be delayed without the incurrence of any lien, charge or liability of any kind against the Demised Premises, the Easements, or any part thereof or operation of the Riverboat Gaming Facility, and without subjecting Tenant or Landlord and/or the City to any liability, civil or

criminal, for failure so to comply therewith, Tenant may delay compliance therewith until the final determination of such proceeding; or

- b. if any lien, charge or civil liability would be incurred by reason of any such delay, Tenant nevertheless may contest as aforesaid and delay as aforesaid, provided that such delay would not subject Landlord and/or the City to criminal liability or fine, and Tenant (i) furnishes to Landlord security, reasonably satisfactory to Landlord, against any loss or injury by reason of such contest or delay, and (ii) prosecutes the contest with due diligence.

Landlord, without cost to it, shall, subject to the foregoing, execute and deliver any appropriate documents and instruments which may be reasonably requested by Tenant in order to permit Tenant to so contest the validity or application of any such law, ordinance, order, rule, regulation or requirement.

ARTICLE IX Improvements, Etc.

Section 9.01. IMPROVEMENTS. Tenant shall construct the Site Improvements as that term is defined in the Development Agreement. All construction, improvement or renovation of or to the improvements by Tenant pursuant to this Lease shall be done in strict and full compliance with all provisions hereof and of the Development Agreement, shall be commenced within sixty (60) days after the execution of the Contingencies Waiver Addendum, subject to the provisions in the Development Agreement made for Unavoidable Delays as that term is defined in Section 5.4 of the Development Agreement, and shall be completed in accordance with Critical Path timing requirements of the Development Agreement.

Section 9.02. TITLE TO TENANT'S PERSONALTY AND FIXTURES. Title to Tenant's Personalty and Fixtures shall at all times during the Term of this Lease be that of the Tenant. Title to all other Site Improvements including the Riverboat Gaming Facility, any equipment and/or appurtenances thereto and all changes, additions and alterations therein and all renewals and replacements thereof when made, erected, constructed, installed or placed upon the Demised Premises or the Easements by Tenant shall be the property of the Landlord.

Section 9.03. DESTRUCTION/DAMAGE. If any of the improvements as erected and constructed on the Demised Premises hereunder or under the Development Agreement shall be substantially damaged by fire or other casualty or as a result of a taking mentioned herein, the provisions hereof shall govern.

Section 9.04. CHANGES AND ALTERATIONS. Tenant shall erect new buildings or improvements on the Demised Premises, the Easements, and/or make changes or additions to existing improvements thereon only subject to, and in compliance with, the

provisions hereof and the relevant provisions of the Development Agreement. Before beginning any such improvement and/or construction, Tenant shall submit to Landlord a copy of the plans and specifications for same, and any amendments thereto, together with an estimate which shall show in reasonable detail, allocated among the various trades, the approximate cost of same. Such plans and specifications shall comply with all relevant legal requirements, the provisions hereof, and of the relevant provisions of the Development Agreement.

Section 9.05. PERFORMANCE BOND. Before beginning the addition or change to any improvements which may at any time be on, adjacent to, or a part of the Demised Premises, or the construction of any new building or other improvement with respect thereto, Tenant will comply with all performance bond requirements of City and/or other governmental authorities having jurisdiction with respect thereto.

Section 9.06. INSURANCE ENDORSEMENTS. Before making any such change or alteration or before beginning the letting of any contracts relating to the construction of any new improvement on the Demised Premises, Tenant shall supply Landlord with such endorsements to the existing insurance policies by Tenant as shall be necessary to cover the contemplated work.

Section 9.07. ADDITIONAL IMPROVEMENTS. If, after satisfactory completion of all work to be done by it hereunder and under the Development Agreement, Tenant desires to alter, enlarge or structurally change any improvements then on the Demised Premises, Tenant may do so provided that Landlord has first approved in writing Tenant's written plans and specifications for same, which approval shall not be unreasonably withheld by Landlord if Tenant performs the same subject to the provisions of this Lease and in particular this Article IX, as if such additional work were called for under the Development Agreement.

Section 9.08. COMPLIANCE WITH LAWS. All improvements and/or additions made and/or erected hereunder shall be designed, constructed and completed in compliance with all requirements of law and with all ordinances, regulations and orders of any and all Federal, State, County and Municipal and other public authorities relating thereto. On completion of same, Tenant will procure a final Certificate of Occupancy and deliver to Landlord the original or a copy thereof.

Section 9.09. SURRENDER OF IMPROVEMENTS. Any and all buildings, structures, alterations, additions and improvements upon the Demised Premises and the Easements, at the expiration or sooner termination of this Lease, shall then become the property of Landlord and shall be surrendered in accordance with the provisions hereof.

ARTICLE X
Discharge of Liens

Section 10.01. NO LIENS. Tenant shall not create or permit to be created or to remain, and shall discharge, any and all mechanic's, laborer's or materialman's liens and any and all conditional sale, title retention agreements, chattel mortgages or security interests, which might be or become a lien, encumbrance or charge upon or claim against the Demised Premises and the Easements or any part thereof and having any priority or preference over or ranking on a parity with the estate, rights and interest of Landlord in the Demised Premises or any part thereof.

Section 10.02. DEFENSE OF LIEN CLAIM. If any mechanic's, laborer's, architect's, engineer's, materialman's or nurseryman's lien shall at any time be filed against the Demised Premises and the Easements or any part thereof, Tenant, within ten (10) days after notice of the filing thereof, shall cause the same to be discharged of record by payment, deposit, bond, order of a court of competent jurisdiction, or otherwise. If Tenant shall fail to cause such lien to be so discharged within the period aforesaid, then, in addition to any other right or remedy hereunder, Landlord, after ten (10) days' notice to Tenant, may, but shall not be obligated to, discharge the same either by paying the amount claimed to be due or by procuring the discharge of such lien by deposit or by bonding proceedings, and in any such event Landlord shall be entitled, if Landlord so elects, to compel the prosecution of an action for the foreclosure of such lien by the lienor and to pay the amount of the judgment in favor of the lienor with interest, costs and allowances. Any amount so paid by Landlord and all costs and expenses incurred by Landlord in connection therewith, together with interest thereon at the Interest Rate (as defined herein) per annum from the respective dates of Landlord's making of the payment or incurring of the cost and expense shall constitute Additional Rent payable by Tenant under this Lease and shall be paid by Tenant to Landlord on demand.

Section 10.03. NO CONSENT. Nothing in this Lease contained shall be deemed or construed in any way as constituting the consent or request of Landlord, express or implied, by inference or otherwise, to any contractor, subcontractor, laborer, supplier or materialman for the performance of any labor or the furnishing of any materials for any specific improvement, alteration to or repair of the Demised Premises, the Easements, or any part of either of same.

ARTICLE XI
No Waste

Tenant shall not do or suffer any material waste or damage, disfigurement or injury to the Demised Premises or any part thereof.

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ARTICLE XII.
Use of Property

Section 12.01. PROPER USE. Tenant shall not use or allow the Demised Premises, the Easements, or any improvements thereon or any appurtenances thereto, for any unlawful purpose or in violation of any certificate of occupancy or license covering or affecting the use of the Demised Premises or the Easements or which may, by law, constitute a nuisance, public or private, or which may make void or voidable any insurance then in force with respect thereto.

Section 12.02. PROHIBITED USE. Tenant shall not suffer or permit the Demised Premises or any portion thereof to be used by the public as such, without restriction or in such manner as might reasonably tend to impair Landlord's or City's title to the Demised Premises and the Easements or any portion thereof, or in such manner as might reasonably make possible a claim or claims of adverse usage, adverse possession or prescription by the public, as such, or of implied dedication, of the Demised Premises and the Easements or any portion thereof. Tenant hereby acknowledges that Landlord does not hereby consent, expressly or by implication, to the unrestricted use or possession of the whole or any portion of the Demised Premises by the public, as such.

ARTICLE XIII
Entry on Demised Premises by Landlord

Section 13.01. RIGHT TO ENTER. Tenant shall permit Landlord and its authorized representatives to enter the Demised Premises at all reasonable times for the purpose of (a) inspecting the same, and (b) making any necessary repairs by reason of Tenant's failure to make any such repairs or perform any such work or to commence the same within ten (10) days after written notice from Landlord (or without notice in case of emergency). Nothing herein shall imply any duty upon the part of Landlord to do any such work, and performance thereof by Landlord shall not constitute a waiver of Tenant's default in failing to perform the same.

Section 13.02. STORAGE. During the progress of any work in, on, or to the Demised Premises and the Easements performed by Landlord pursuant to any of the provisions hereof, Landlord may keep and store therein all necessary materials, tools, supplies and equipment. Landlord shall not be liable for inconvenience, annoyance, disturbance, loss of business or other damage of Tenant by reason of making such repairs or the performance of any such work, or on account of bringing materials, tools, supplies and

equipment into the Demised Premises during the course thereof and the obligations of Tenant under this Lease shall not be affected thereby.

ARTICLE XIV
Indemnification of and by Landlord and Tenant

Effective upon the date hereof, Tenant shall fully indemnify and save harmless Landlord and City and their respective elected

and/or appointed officials, agents, servants, employees, officers and directors, from and against any and all liabilities, obligations, damages, penalties, claims, costs, charges and expenses, and any and all suits and proceedings in connection therewith, even if any such suit, claim or proceeding is false, groundless or fraudulent, including, without limitation, reasonable architects', engineers', accountants', expert witnesses' and attorneys' fees, which may be imposed upon or incurred by or asserted against Landlord and/or City, their said elected and/or appointed officials, agents, servants, officers, directors and employees by reason of or arising in whole or in part from any of the following or other actual or alleged matters, occurrences, events, transactions, acts and omissions during the Term of this Lease or any renewal or extension thereof or for so long as Tenant shall be in possession of the Demised Premises or any part thereof:

- a. any work or thing done or permitted to be done in, on or about the Demised Premises and the Easements or any part thereof by Tenant, its sublessees, franchisees, licensees and any of their respective officers, directors, agents, contractors, employees, and invitees;
- b. any use, non-use, possession, occupation, condition, operation, maintenance or management of the Demised Premises and the Easements or any part thereof or any alley, sidewalk, curb, street, bridge, walkway, garage, passageway or space adjacent thereto or any riverboat gaming enterprise associated therewith for which Tenant is responsible hereunder;
- c. any negligent or intentional act or omission on the part of Tenant or any of its agents, contractors, servants, employees, subtenants, licensees or invitees;
- d. any accident, injury or damage to any person or property occurring in, on or about or arising from the Demised Premises and the Easements or any part thereof, or any alley, sidewalk, curb, street, bridge, walkway, passageway or space adjacent thereto;
- e. any failure on the part of Tenant to perform or comply with any of the covenants, agreements, terms, provisions, conditions or limitations contained in this Lease and/or the Development Agreement, to be performed or complied with by it; and/or
- f. any obligation of the Tenant or Tenant's contractors and/or their subcontractors under workers' compensation laws or the laws of the federal government or any state's government as to any employee benefits or any employment related problems under ERISA or any other statutory liabilities, be they state, local or federal.

Notwithstanding the foregoing, Tenant shall not be obligated hereunder with respect to the liability or responsibility for any

pre-existing environmental conditions described in Section 8.02.3 hereof.

In case any action or proceeding is brought against Landlord or City by reason of any such claim, Tenant, upon written notice from Landlord or City, shall at Tenant's sole cost and expense resist and defend such action or proceeding by counsel approved by Landlord in writing, which approval Landlord agrees not to unreasonably withhold.

Landlord shall fully indemnify and save harmless Tenant and its agents, servants, employees, officers and directors, with respect to any failure on the part of Landlord to perform or comply with any of the covenants, agreements, terms, provisions, conditions, or limitations contained in this Lease and/or the Development Agreement, to be performed or complied with by Landlord and any and all liabilities, obligations, damages, penalties, claims, costs, charges and expenses, and any and all suits and proceedings in connection therewith, even if any such suit, claim or proceeding is false, groundless or fraudulent, including, without limitation, reasonable architects', engineers', accountants', expert witnesses' and attorneys' fees, which may be imposed upon or incurred by or asserted against Tenant, its said agents, servants, officers, directors and employees by reason of or arising in whole or in part from any such actual or alleged matters, occurrences, events, transactions, acts and omissions during the Term of this Lease or any renewal or extension thereof or for so long as Tenant shall be in possession of the Demised Premises or any part thereof. In case any action or proceeding is brought against Tenant by reason of any such claim, Landlord, upon written notice from Tenant, shall at Landlord's sole cost and expense resist and defend such action or proceeding by counsel approved by Tenant in writing, which approval Tenant agrees not to unreasonably withhold.

Neither Landlord nor the City shall be responsible or liable to Tenant, or to those claiming by, through, or under Tenant, nor shall Landlord or the City be required to protect, defend, indemnify or hold Tenant or any of such persons or entities harmless from and against any loss or damage which may be occasioned by or through Tenant or others (including Tenant's business invitees), as a result of the occupancy or use of the Demised Premises and the Easements or any damage or injury of any nature whatsoever, including, without limitation, any loss or damage which arises from any defect in or failure of or danger in connection with the Demised Premises and the Easements or any improvement thereon or adjacent thereto, or any utility or other service furnished in connection therewith all except as described in Section 8.02.3 hereof. Other than as described in Section 8.02.3 hereof, Tenant shall use and occupy the Demised Premises and the Easements, and all parts thereof and make same available to its business invitees and others at Tenant's sole risk and at no risk or liability to Landlord or the City.

ARTICLE XV
Damage or Destruction

Section 15.01. REPAIR/RESTORATION BY TENANT. In case of damage to or destruction of any improvements now or hereafter existing on the Demised Premises and the Easements, including the Site Improvements as defined herein), Tenant shall be obligated to repair and/or restore the same. If Tenant shall, as soon as is practical after any such damage or destruction considering the extent of the damage, commence repair and/or construction of a new building and/or other improvements, as applicable, the proceeds of any insurance payable by reason of such damage or destruction shall be paid to Tenant. If Tenant shall fail to so commence such repair/construction and diligently pursue completion within such period of time, such proceeds of insurance shall be the property of and shall be paid to Landlord, except for proceeds payable with respect to Tenant's Personalty and Fixtures. Notwithstanding the foregoing, Landlord shall have all rights to direct use of payments made under insurance provided under Section 5.02(b) hereof.

Section 15.02. NOTICE. In case of damage to or destruction of any improvements on the Demised Premises and the Easements or any part thereof, by fire or otherwise, Tenant shall promptly give written notice thereof to Landlord, and Tenant shall, at Tenant's sole cost and expense, and whether or not the insurance proceeds, if any, shall be sufficient for such purpose, restore, repair, replace, rebuild or alter the same as nearly as possible to its value immediately prior to such damage or destruction, with such changes or alterations as may be made from time to time at Tenant's election, all in conformity with and subject to the applicable terms and conditions hereof and of the Development Agreement.

Section 15.03. NO RIGHT TO TERMINATE/SURRENDER. No destruction of or damage to the improvements on the Demised Premises and the Easements or any part thereof, by fire or any other casualty, shall permit Tenant to surrender this Lease or shall relieve Tenant from its liability to pay the full Minimum Net Rent, Percentage Rent, Additional Rent, the Riverfront Park Grant and other charges payable under this Lease or from any of its other obligations under this Lease or under the Development Agreement, and Tenant waives all rights now or hereafter conferred upon it by statute or otherwise to quit or surrender this Lease or the Demised Premises or any part thereof or to cease its operations hereunder or to any suspension, diminution, abatement or reduction of Rent on account of any such destruction or damage.

ARTICLE XVI
Condemnation

Section 16.01. TAKING. In the event that the Demised Premises or the Easements, or any part thereof, shall be taken in condemnation proceedings or by exercise of any right of eminent domain or by agreement between Landlord and Tenant (any such matters being hereinafter referred to as a "taking"), Landlord and Tenant shall have the right to participate in any such condemnation

proceedings or agreement for the purpose of protecting their interests hereunder. Each party so participating shall pay its own expenses therein.

Section 16.02. SUBSTANTIAL/COMPLETE TAKING. If at any time during the term of this Lease or any renewal or extension thereof there shall be a taking of the whole or substantially all of the Demised Premises, this Lease shall terminate and expire on the date of such taking and the Rent payable hereunder shall be equitably apportioned and paid to the date of such taking and Tenant shall have no further liability to Landlord under this Lease. For the purpose of this Article, "substantially all of the Demised Premises" shall be deemed to have been taken if (i) the untaken part of the Demised Premises and/or the Easements shall be insufficient for the economic and feasible continued operation of the riverboat gambling enterprise in connection therewith, or (ii) if the taken part of the Demised Premises and/or Easements includes the Riverboat Gaming Facility.

Section 16.03. TERMINATION FROM TAKING. If this Lease shall have terminated as a result of such taking:

As to all of any award (regardless of basis for the making of same), Tenant shall be entitled to that portion of the award which is equivalent to a fraction in which the numerator is equal to the number of years remaining in the initial Term (and any potential renewal term) and the denominator is fifty (50) years ("Tenant's Award") and Landlord shall be entitled to the remainder of such award, provided however that in no event shall Landlord's share of such award be less than that amount of money required to retire all then outstanding bonds secured by Landlord's interest in this Lease on the earliest redemption date to occur after termination of this Lease. Provided further such minimum Landlord's share shall not exceed the total principal interest and redemption premium, if any, that would have been due and owing as of the next redemption date under the first occurring Bond Issuance contemplated and described in Section 2.14 of this Lease.

Section 16.04. PARTIAL TAKING. If this Lease shall not have been terminated as above provided and shall continue after the taking, then in such event all of the Award (regardless of the basis for the making of same) shall be distributed as follows:

- a. Tenant shall be tendered that portion of the award received for all purposes (including land acquisition) of replacing, improving or making usable any improvement on or adjacent to the Demised Premises that needs replacement or alteration or improvement as a result of the taking; and
- b. The remainder of the Award shall be divided between Landlord and Tenant as set forth in Section 16.03 above, except that the provisions therein for Landlord's minimum share respecting outstanding bonds shall not apply.

Notwithstanding the foregoing, in the event of exercise of power of eminent domain by the Missouri Highway and Transportation Department ("MHTD") or a successor thereof, of all or part of Parking Parcel A as that term is defined in that certain Cooperative Agreement between the City, Landlord and Tenant dated July 31, 1995, Tenant and Landlord shall not be entitled to damages for such taking and in such event the parties shall modify this Lease as therein provided.

Section 16.05. EASEMENT TYPE TAKING. In the event of the taking of an easement or any other taking which shall be of an interest or estate in the land less than a fee simple, as a result of which the Demised Premises shall be insufficient for the economic and feasible continued operation of its business thereon by Tenant, this Lease shall terminate and expire with the same force and effect as in the case of a taking pursuant to Section 16.03 hereof. Otherwise, such taking shall be deemed a taking insufficient to terminate this Lease, and the division of the award shall be governed by Section 16.04 in so far as that Section shall be applicable; provided, however, that if there shall be any payment or award predicated on a change in the grade of a street or avenue on which the Demised Premises abut, Tenant shall be entitled, after making such change in restoration as may be necessary and appropriate by reason of such change of grade, to reimbursement for the expense thereof to the extent of the net amount of any payment or award, after deduction of costs of collection, including, without limitation, attorneys' fees and expenses, which may be awarded for such change of grade. Any part of an award for change of grade which shall remain unexpended after such restoration shall be the property of Landlord. If any award shall include change of grade and any other item or element of damage, that part thereof shall be applied in accordance with this Section 16.05 which shall be specifically attributed to change of grade by the condemnation award or, if not so attributed, shall be determined by agreement between the parties.

ARTICLE XVII

Assignments, Mortgages and Subleases of Tenant's Interest

Except as specifically provided herein and in the Development Agreement, Tenant, and its permitted successors and assigns, shall have the right to assign, sublet, mortgage, encumber or otherwise affect this Lease or any interest therein, with the prior written consent of Landlord, which consent shall not be unreasonably withheld. Landlord's withholding of such consent shall be deemed reasonable hereunder unless Tenant and its proposed assignee comply with requirements substantially similar to those set forth in Section 18.04 B viii, (b) and (c) herein.

With the prior written consent of Landlord, not to be unreasonably withheld or delayed, Tenant shall have the right to enter into sublease, license, franchise and concessionaire agreements with persons or entities to operate various types of ancillary and/or supporting business enterprises to Tenant's gaming

business enterprise at the Demised Premises including, without limitation, those for the serving of food and beverages.

No assignment or sublease, even if so consented to, shall be effective unless and until Landlord shall have received an executed counterpart of such assignment or sublease, in recordable form, under which the assignee shall have assumed all obligations of Tenant under this Lease and shall have specifically agreed to perform and observe the covenants and conditions in this Lease contained on Tenant's part to be performed and observed.

Notwithstanding the foregoing, Landlord acknowledges that Tenant is obligated under provisions of the Development Agreement to cause its riverboat gaming enterprise to be conducted by an enterprise which is ninety percent (90%) owned by Tenant and ten percent (10%) owned by minority interests. To the extent necessary to enable such joint venture to so operate, Tenant may assign its interest hereunder (but specifically without relieving it of any obligation or liability hereunder), provided, however, that such enterprise is formed pursuant to the minority ownership requirements of the Development Agreement and/or any Exhibit thereto and that on the Opening Date and for a period equal to the lesser of (i) five (5) years after the date hereof, or (ii) three (3) years after the Opening Date, and such enterprise shall in fact be ten percent (10%) minority owned. Tenant further agrees that said ten percent (10%) minority interest shall be such that such minority interest in the aggregate shall enjoy, receive and benefit from its aggregate ten percent (10%) ownership interest in the riverboat gaming enterprise herein provided for.

Landlord shall have the right to, or to allow City to, convey, assign, pledge, encumber or mortgage any part of its respective interest in the Demised Premises and/or this Lease, specifically including but not being limited to any assignment by Landlord to a third party bond trustee, as security for bonds issued by Landlord and secured by this Lease so long as any such transfer is not to any person or party in direct competition with Tenant, and, in the event of a pledge, encumbrance or mortgage, such mortgagee(s) and Tenant enter into a Non-Disturbance and Attornment Agreement in standard form reasonably satisfactory to Tenant. Tenant may pledge, encumber or mortgage its leasehold estate or any part thereof so long as any such transfer is subordinate to the City's and to Landlord's (or its mortgagee's) estates and provided further that Landlord and any such mortgagee(s) shall enter into a Non-Disturbance and Attornment Agreement in standard form reasonably satisfactory to Landlord and the City.

ARTICLE XVIII Default

Section 18.01. "EVENT OF DEFAULT" BY TENANT DEFINED. Any one or more of the following events shall constitute an "Event of Default" by Tenant hereunder:

- a. The sale, assignment or other transfer of all or any of Tenant's interest in this Lease and/or the Demised Premises or any portion thereof (other than as is permitted under Article XVII hereof) voluntarily, or under attachment, execution or similar legal process, or if Tenant is adjudicated as bankrupt or insolvent under any state bankruptcy or insolvency law and such adjudication or order is not vacated within ninety (90) days and Tenant is not otherwise in default hereunder.
- b. The commencement of a case under any chapter of the Federal Bankruptcy Code by or against Tenant or any operating entity of Tenant's riverboat gaming enterprise ("Operator") in connection with the Demised Premises or any portion thereof, or the filing of a voluntary or involuntary petition thereunder proposing the adjudication of Tenant or Operator as bankrupt or insolvent, or the reorganization of Tenant, or Operator or an arrangement by Tenant or any such Operator with its creditors, unless the petition filed or case commenced is withdrawn or dismissed within ninety (90) days after the date of its filing and Tenant is not otherwise in default hereunder.
- c. The appointment of a receiver or trustee for the business or property of Tenant or any such Operator, unless such appointment shall be vacated within ninety (90) days of its entry.
- d. The making by Tenant or any such Operator of an assignment for the benefit of its creditors, or if in any other manner Tenant's interest in this Lease shall pass to another person, firm or entity by operation of law except a merger or reorganization of Tenant in which Tenant shall be the survivor and/or the same persons or entities in control of Tenant shall remain in control of such merged or reorganized entity.
- e. The failure of Tenant to pay any portion of properly due Rent within five (5) days after the giving of notice thereof by Landlord that the same is due hereunder. Tenant's failure to pay Percentage Rent greater than the Minimum Net Rent shall not be sufficient ground for termination of this Lease by Landlord if such failure is the result of a bona fide dispute as to the amount due and payable and Tenant promptly pays any Percentage Rent underpayment with interest at the Interest Rate from the due date until paid upon resolution of such dispute.
- f. Material default by Tenant in the performance or observance of any covenant or agreement of this Lease (other than a default involving the payment of Rent), or any obligation of Tenant under the Development Agreement or any Exhibit thereto, which default is not cured within ten (10) days after the giving of notice thereof by

Landlord, unless such default is of such nature that it cannot reasonably be cured within such ten (10) day period, in which case no Event of Default shall occur so long as Tenant shall commence the curing of the default within such ten (10) day period and shall thereafter diligently prosecute the curing of same; provided, however, if Tenant shall default in the performance of any such covenant or agreement of this Lease, the Development Agreement or any Exhibit thereto two (2) or more times in any twelve (12) month period, then notwithstanding that each of such defaults shall have been cured by Tenant, any further default of such covenant or agreement within such twelve (12) month period shall be deemed an Event of Default without the ability for cure.

- g. The vacation or abandonment of the Demised Premises at any time after the Commencement Date by Tenant except a vacation or abandonment permitted under Section 2.06 hereof.
- h. The occurrence of any other event described as constituting an "Event of Default" elsewhere in this Lease or the Development Agreement or any Exhibit thereto and the continuation of such an Event of Default after the expiration of any cure period provided herein or therein.

Section 18.02. REMEDIES. Upon the occurrence of an Event of Default and the continuation of any such Event of Default after the expiration of any applicable cure period provided for herein, Landlord, without further notice to Tenant in any instance (except as expressly provided for below), may do any one or more of the following:

- a. With or without judicial process, enter the Demised Premises and take possession thereof without the necessity of legal proceedings, and remove Tenant and all other persons and property from the Demised Premises, and may store such property in a public warehouse or elsewhere at the cost of and for the account of Tenant without resort to legal process and without Landlord being deemed guilty of trespass or becoming liable for any loss or damage occasioned thereby; and Landlord may, from time to time without terminating this Lease, make such alterations and repairs as may be necessary to relet the Demised Premises or any portion thereof, alone or together with other premises, on behalf of Tenant and for such term or terms (which may be greater or less than the period which otherwise would have constituted the balance of the Term or any then validly exercised renewal thereof) and on such terms and conditions (which may include concessions or free rent and alteration of the Demised Premises) as Landlord, in its sole discretion, may determine, but Landlord shall not be liable for, nor

shall Tenant's obligations under this Lease be diminished by reason of, any failure by Landlord to relet the Demised Premises or any failure by Landlord to collect any rent due upon such reletting so long as Landlord has reasonably attempted to mitigate damages as required in Section 18.10. No such re-entry or the taking of possession of the Demised Premises or any portion thereof by Landlord shall be construed as an election on its part to terminate this Lease or to accept a surrender thereof unless a written notice of such intention be given to Tenant. Notwithstanding any such reletting without termination, Landlord may at any time thereafter elect to terminate this Lease for such previous breach and receive, in addition to any other damages to which it may be entitled, the Default/Termination Damages defined in 18.03 of this Lease and, in addition, the "Liquidated Damages" described in 18.03(ii) of this Lease; or

- b. Perform, on behalf and at the expense of Tenant, any obligation of Tenant under this Lease which Tenant has failed to perform and of which Landlord shall have given Tenant notice, the cost of which performance by Landlord, together with interest thereon at the Interest Rate from the date of such expenditure, shall be deemed Additional Rent and shall be payable by Tenant to Landlord upon demand. Notwithstanding the provisions of this clause (b) and regardless of whether an Event of Default shall have occurred, Landlord may exercise the remedy described in this clause (b) without any notice to Tenant if Landlord, in its good faith judgment, believes it would be materially injured by failure to take rapid action or, if the unperformed obligation of Tenant constitutes an emergency; or
- c. Elect to terminate this Lease and the tenancy created hereby by giving written notice of such election to Tenant, and reenter the Demised Premises and the Easements, without the necessity of legal proceedings, and remove Tenant and all other persons and property from the Demised Premises and the Easements, and may store such property in a public warehouse or elsewhere at the cost of and for the account of Tenant without resort to legal process and without Landlord being deemed guilty of trespass or becoming liable for any loss or damage occasioned thereby; or
- d. Exercise any other legal or equitable right or remedy which it may have.
- e. Notwithstanding anything to the contrary contained above or elsewhere herein or as provided by law or equity generally, in recognition of the major investment in Site Improvements, grants and fundings to be made by Tenant for Landlord's benefit as set out herein or in the Development Agreement, Landlord agrees that after the

Commencement Date, it will only elect the remedies of dispossessing Tenant or terminating this Lease as a last resort in the event that Tenant has materially failed to perform its obligations hereunder and Tenant has failed to compensate Landlord for all reasonable damages and costs caused. Landlord by such breach(es) so long as Tenant in good faith is continuing to operate the riverboat gaming enterprise in substantially the manner contemplated herein.

All costs and expenses incurred by Landlord (including, without limitation, reasonable attorneys' fees) in enforcing any of its rights and remedies under this Lease shall be deemed to be Additional Rent and shall be paid to Landlord by Tenant upon demand.

Section 18.03 DAMAGES.

Whether or not this Lease is terminated by Landlord pursuant to Section 18.02 hereof, upon the occurrence of an Event of Default and the continuation of any such Event of Default after the expiration of any applicable cure period provided for herein, Tenant shall in all events nevertheless remain liable for (a) any Rent, any installment of the Riverfront Park Grant (the "Grant"), any damages which may be due or sustained prior to the last to occur of the date upon which an Event of Default occurs or the date of expiration of any applicable cure period with respect to such Event of Default, including damages under Section 2.06 hereof, and, in addition, all reasonable costs, fees and expenses, including, but not limited to, reasonable attorneys' fees, costs and expenses, incurred by Landlord in pursuit of its remedies hereunder, and in renting the Demised Premises and the Easements or any portion thereof to others from time to time (all such Rent, Grant, damages, costs, fees and expenses being referred to herein as "Default/Termination Damages"), and (b) in the event Landlord shall attempt to relet or shall relet all or any portion of the Demised Premises or in the event that this Lease shall be terminated, additional damages (the "Liquidated Damages"), which, at the election of Landlord, shall be as follows:

- i. in the event that Landlord has not exercised its right to terminate this Lease, an amount equal to the Rent which would have become due during the remainder of the Term or any exercised renewal thereof, less the amount of rent, additional rent, grant, and other sums, if any, which Landlord shall receive during such period from others to whom the Demised Premises and/or any portion thereof may be rented (other than any rent or other sum received by Landlord as a result of any failure of such other person or entity to perform any of its obligations to Landlord), in which case such Liquidated Damages shall be computed and payable in monthly installments, in

advance, on the first day of each calendar month following the occurrence of an uncured Event of Default under this Lease and continuing until the date on which the Term (or any

exercised renewal thereof with no automatic renewals to occur thereafter) is due to expire, and any suit or action brought to collect any such Liquidated Damages for any month shall not in any manner prejudice the right of Landlord to collect any Liquidated Damages for any subsequent month by a similar proceeding or be deemed to require repeated lawsuits hereunder, or

- ii. if Landlord shall at any time exercise its right to terminate this Lease, an amount equal to the present worth (as of the date of such termination) of Rent and Grant which, but for such termination of this Lease, would have become due during the remainder of the Term (or any exercised renewal thereof), less the fair rental value of the Demised Premises for the remainder of the Term (or any exercised renewal thereof) with no automatic renewals to occur thereafter, as determined by an independent appraiser named by the presiding judge of the Circuit Court of Jackson County, Missouri, in which case such Liquidated Damages shall be payable to Landlord in one lump sum on demand and shall bear interest at the Interest Rate until paid. For purposes of this clause (ii), "present worth" shall be computed by discounting such amount to present worth at a discount rate equal to the Interest Rate.

If an uncured Event of Default shall take place after the expiration of two or more years after the Opening Date, then, for purposes of computing the Liquidated Damages, the Percentage Rent payable with respect to each calendar year or portion thereof following such uncured Event of Default (including the balance of the year in which such uncured Event of Default shall take place) shall be conclusively presumed to be equal to the average Percentage Rent payable with respect to each complete year preceding such uncured Event of Default. If such uncured Event of Default shall take place before the expiration of two years after Opening Date, then, for purposes of computing the Liquidated Damages, the Percentage Rent payable with respect to each calendar year or portion thereof following such uncured Event of Default (including the balance of the calendar year in which such uncured Event of Default shall take place) shall be conclusively presumed to be equal to twelve (12) times the average monthly amount of Percentage Rent which was due and payable prior to such uncured Event of Default, or if no Percentage Rent shall have been payable during such period, then the Percentage Rent for each year of the unexpired Term shall be conclusively presumed to be a sum equal to that described in Section 2.06 as if there had been a failure of Tenant to operate its riverboat gaming enterprise.

Default/Termination Damages shall be due and payable immediately upon demand by Landlord following any uncured Event of Default of this Lease pursuant to Section 18.02. Liquidated Damages shall be due and payable at the times set forth herein.

Nothing contained in this Lease shall limit or prejudice the right of Landlord to prove for and obtain, in proceedings for the termination of this Lease by reason of bankruptcy or insolvency, an amount equal to the maximum allowed by any statute or rule of law in effect at the time when, and governing the proceedings in which the damages are to be proved, whether or not the amount be greater, equal to, or less than the amount of the loss or damages referred to above. The failure or refusal of Landlord to relet the Demised Premises or any part or parts thereof shall not release or affect Tenant's liability for damages hereunder so long as Landlord has reasonably attempted to mitigate damages as required in Section 18.10.

Section 18.04. REMEDIES IN EVENT OF BANKRUPTCY OR OTHER PROCEEDING.

A. Anything contained herein to the contrary notwithstanding, if termination of this Lease shall be stayed by order of any court having jurisdiction over any proceeding described in paragraph (b) of Section 18.01, or by federal or state statute, then, following the expiration of any such stay, or if Tenant or Tenant as debtor-in-possession or the trustee appointed in any such proceeding (being collectively referred to as "Tenant" only for the purposes of this Section 18.04) shall fail to assume Tenant's obligations under this Lease within the period prescribed therefor by law or after entry of the order for relief or as may be allowed by the court, or if Tenant shall fail to provide adequate protection of Landlord's right, title and interest in and to the Demised Premises or adequate assurance of the complete and continuous future performance of Tenant's obligations under this Lease, then Landlord, to the extent permitted by law or by leave of the court having jurisdiction over such proceeding, shall have the right, at its election, to terminate this Lease, without written notice to Tenant, and upon the effective date of such termination, this Lease shall cease and expire as aforesaid and Tenant shall immediately quit and surrender the Demised Premises as aforesaid. Upon the termination of this Lease as provided above, Landlord, without notice, may re-enter and repossess the Demised Premises using such force for that purpose as may be necessary without being liable to indictment, prosecution or damages therefor and may dispossess Tenant by summary proceedings or otherwise.

B. For the purposes of the preceding paragraph (a), adequate protection of Landlord's right, title and interest in and to the Demised Premises, and adequate assurance of the complete and continuous future performance of Tenant's obligations under this Lease, shall include, without limitation, the following requirements:

- i. that Tenant comply with all of its obligations under this Lease;
- ii. that Tenant pay to Landlord, on the first day of each month occurring subsequent to the entry of such order, or the effective date of such stay, a sum equal to the

amount by which the Demised Premises diminished in value during the immediately preceding monthly period, but, in no event, an amount which is less than the aggregate Rent payable for such monthly period;

- iii. that Tenant continue to use the Demised Premises in the manner and for the purposes originally required by this Lease;
- iv. that Landlord be permitted to supervise the performance of Tenant's obligations under this Lease;
- v. that Tenant pay to Landlord within fifteen (15) days after entry of such order or the effective date of such stay, as partial adequate protection against future diminution in value of the Demised Premises and adequate assurance of the complete and continuous future performance of Tenant's obligations under this Lease, a security deposit in an amount reasonably acceptable to Landlord;
- vi. that Tenant has and will continue to have unencumbered assets after the payment of all secured obligations and administrative expenses adequate to assure Landlord that sufficient funds will be available to fulfill the obligations of Tenant under this Lease;
- vii. that if Tenant assumes this Lease and proposes to assign the same (pursuant to Title 11 U.S.C. §365, or as the same may be amended) to any person or entity who/which shall have made a bona fide offer to accept an assignment of this Lease on terms acceptable to such court having competent jurisdiction over Tenant's estate, then notice of such proposed assignment, setting forth (x) the name and address of such person or entity, (y) all of the terms and conditions of such offer, and (z) if required by law or by any court, the adequate assurance to be provided Landlord to assure such person's or entity's future performance under this Lease, including, without limitation, the assurances referred to in Title 11 U.S.C. §365(b)(3), as it may be amended, shall be given to Landlord by Tenant no later than fifteen (15) days after receipt by Tenant of such offer, but in any event no later than thirty (30) days prior to the date that Tenant shall make application to such court for authority and approval to enter into such assignment and assumption, and Landlord shall thereupon have the prior right and option, to be exercised by notice to Tenant given at any time prior to the effective date of such proposed assignment, to accept, or to cause Landlord's designee to accept, an assignment of this Lease upon the same terms and conditions and for the same consideration, if any, as the bona fide offer made by such person or entity, less any brokerage commissions which may be payable out of the

consideration to be paid by such person or entity for the assignment of this Lease; and

viii. that if Tenant assumes this Lease and proposes to assign the same, and Landlord does not exercise its option pursuant to paragraph (vii) of this Section 18.04, Tenant hereby agrees that:

- (a) such assignee shall have a net worth not less than the net worth of Tenant as of the Opening Date, or such Tenant's obligations under this Lease shall be unconditionally guaranteed by a person or an entity having a net worth equal to Tenant's net worth as of the Opening Date;
- (b) such assignee shall not use the Demised Premises except subject to all restrictions contained in this Lease;
- (c) such assignee shall assume in writing all of the terms, covenants and conditions of this Lease including, without limitation, all of such terms, covenants and conditions respecting the permitted use and payment of Rent, and such assignee shall provide Landlord with assurances satisfactory to Landlord that it has the experience in operating gaming enterprises similar to that to be conducted by Tenant hereunder, sufficient to enable it to so comply with all of the terms, covenants and conditions of this Lease and successfully operate the Demised Premises for such use; and
- (d) if such assignee makes any payment to Tenant, or for Tenant's account, for the right to assume this Lease (including, without limitation, any lump sum payment, installment payment or payment in the nature of rent over and above the Rent payable under this Lease), Tenant shall pay over to Landlord one-quarter (1/4) of any such payment.

Section 18.05. CONTINUED OBLIGATION.

A. No expiration or termination of this Lease or relief sought or obtained by Landlord or Tenant hereunder shall relieve Tenant or Landlord, as the case may be, of its liability and obligations under this Lease, and such liability and obligations shall survive any such expiration or termination or enforcement or attempted enforcement of relief hereunder.

B. In the event that the Demised Premises or any part thereof shall be re-let by Landlord for the unexpired term of this Lease, or any part thereof, before presentation of proof of such, liquidated damages to any court, then the amount of rent reserved upon such re-letting shall, prima facie, be the fair and reasonable rental value for the part or the whole of the Demised Premises so

re-let during the term of the re-letting. Nothing herein contained shall limit or prejudice the right of Landlord to prove for and obtain, as liquidated damages by reason of such termination, an amount equal to the maximum allowed by any statute or rule of law in effect at the time when, and governing the proceedings in which, such damages are to be proved, whether or not such amount be greater, equal to, or less than the amount of the difference referred to above.

Section 18.06. WAIVER BY TENANT. Tenant hereby expressly waives, so far as permitted by law, the service of any notice of intention to re-enter provided for in any statute and, except as is herein otherwise provided, Tenant, for and on behalf of itself and all persons and entities claiming through or under Tenant (including any leasehold mortgagee or other creditor), also waives any and all right of redemption or re-entry or re-possession in case Tenant shall be dispossessed by a judgment or by warrant of any court or judge or in case of re-entry or re-possession by Landlord or in case of any expiration or termination of this Lease. The terms "enter", "re-enter", "entry" or "re-entry" as used in this Lease are not restricted to their technical legal meanings.

Section 18.07. NO WAIVER BY LANDLORD OR TENANT. No failure by Landlord or Tenant to insist upon the strict performance of any agreement, term, covenant or condition hereof, or to exercise any right or remedy upon a breach of any agreement, term, covenant or condition hereof, and no acceptance of full or partial Rent during the continuance of any such breach, shall constitute a waiver of any such breach or of such agreement, term, covenant or condition. No agreement, term, covenant or condition hereof to be performed or complied with by Tenant or Landlord, and no breach thereof, shall be waived, altered or modified except by a written instrument executed by the non-breaching party. No waiver of any breach shall affect or alter this Lease; but each and every agreement, term, covenant and condition hereof shall continue in full force and effect with respect to any other then existing or subsequent breach thereof.

Section 18.08. INJUNCTION. In the event of any breach or threatened breach by Tenant or Landlord of any of the agreements, terms, covenants or conditions contained in this Lease, Tenant or Landlord, as the case may be, shall be entitled to enjoin such breach or threatened breach and shall have the right to invoke any right and remedy allowed at law or in equity or by statute or otherwise as though other remedies were not provided for in this Lease.

Section 18.09. CUMULATIVE RIGHTS. Each right and remedy provided to Landlord or Tenant in this Lease shall be cumulative and shall be in addition to every other right or remedy provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise.

Section 18.10. MITIGATION. While Landlord shall be entitled to pursue each and every remedy hereunder as provided above,

Landlord shall have the obligation to use reasonable best efforts to mitigate its damages hereunder by seeking a new tenant after Landlord has terminated this Lease.

Section 18.11. DEFAULT BY LANDLORD; TENANT REMEDIES. Should Landlord materially default in the performance or observance of any covenant or agreement of this Lease, or any obligation of Landlord under the Development Agreement or any Exhibit thereto, which default is not cured within ten (10) days after the giving of notice thereof by Tenant, unless such default is of such a nature that it cannot reasonably be cured within such ten (10) day period, in which case no default by Landlord shall occur so long as Landlord shall commence the curing of the default within such ten (10) day period and shall thereafter diligently prosecute the curing of same; provided, however, if Landlord shall default in performance of any such covenant or agreement of this Lease, the Development Agreement or any Exhibit thereto two (2) or more times in any twelve (12) month period, then notwithstanding that each of such defaults shall have been cured by Landlord, any further default of such covenant or agreement within such twelve (12) month period shall be deemed a default without cure thereof. If Landlord does not timely cure such a default, Tenant shall have such legal and equitable remedies as are provided by law for such a default.

All costs and expenses incurred by Tenant (including without limitation reasonable attorneys' fees) in enforcing any of its rights or remedies under this Lease shall be paid to Tenant by Landlord upon demand.

ARTICLE XIX Renewal Privileges

Section 19.01. EIGHT RENEWAL TERMS. If this Lease shall be in force and effect on the date for the expiration of the initial term hereof, Tenant shall automatically be deemed to have elected a renewal of the term hereby granted for a period of five (5) years beginning with the date of such expiration of such initial term, provided, however, that Tenant shall not have given Landlord at least twelve (12) months prior written notice negating such election. If this Lease shall be in force and effect on the date for the expiration of the first renewal term hereof, Tenant shall automatically be deemed to have elected a second renewal of the term hereby granted for a period of five (5) years beginning with the date of such expiration of the first renewal term, provided, however, that Tenant shall not have given Landlord at least twelve (12) months prior written notice negating such election. If this Lease shall be in force and effect on the date for the expiration of the second renewal term thereof, Tenant shall automatically be deemed to have elected a third renewal of the term hereby granted for a period of five (5) years beginning with the date of such expiration of the second renewal term, provided, however, that Tenant shall not have given Landlord at least twelve (12) months prior written notice negating such election. If this Lease shall be in force and effect on the date for the expiration of the third renewal term thereof, Tenant shall automatically be deemed to have

elected a fourth renewal of the term hereby granted for a period of five (5) years beginning with the date of such expiration of the third renewal term, provided, however, that Tenant shall not have given Landlord at least twelve (12) months prior written notice negating such election. If this Lease shall be in force and effect on the date for the expiration of the fourth renewal term thereof, Tenant shall automatically be deemed to have elected a fifth renewal of the term hereby granted for a period of five (5) years beginning with the date of such expiration of the fourth renewal term, provided, however, that Tenant shall not have given Landlord at least twelve (12) months prior written notice negating such election. If this Lease shall be in force and effect on the date for the expiration of the fifth renewal term hereof, Tenant shall automatically be deemed to have elected a sixth renewal of the term hereby granted for a period of five (5) years beginning with the date of such expiration of the fifth renewal term, provided, however, that Tenant shall not have given Landlord at least twelve (12) months prior written notice negating such election. If this Lease shall be in force and effect on the date for the expiration of the sixth renewal term hereof, Tenant shall automatically be deemed to have elected a seventh renewal of the term hereby granted for a period of five (5) years beginning with the date of such expiration of the sixth renewal term, provided, however, that Tenant shall not have given Landlord at least twelve (12) months prior written notice negating such election. If this Lease shall be in force and effect on the date for the expiration of the seventh renewal term hereof, Tenant shall automatically be deemed to have elected an eighth renewal of the term hereby granted for a period of five (5) years beginning with the date of such expiration of the seventh renewal term, provided, however, that Tenant shall not have given Landlord at least twelve (12) months prior written notice negating such election. Tenant acknowledges that a provision of the Charter of the City may impose a fifty (50) year limit on the term of the City Lease, which limit may affect the length of the eighth renewal of the term of this Lease. Tenant acknowledges and agrees that any resulting limitation on the length of the eighth renewal only of the term of this Lease shall not give rise to any claim of default, under or invalidity of this Lease or any extension hereof. This Lease shall not be deemed to be or have been in force and effect on any date on which Tenant shall be in default hereunder. Each such renewal term shall be upon the same terms and conditions as contained herein for the initial term (and applicable renewal term (s)) except for the diminishing of the number of renewal terms remaining as each such renewal term expires and except that as to each such renewal term, the Minimum Net Rent payable during same (in equal annual installments as to the Minimum Net Rent) shall be increased from the Minimum Net Rent payable during the initial term hereof by the percentage of change in the Consumer Price Index as of the Opening Date to the Consumer Price Index as of the first day of any such renewal term. For the purposes of this Section 19.01, the "Consumer Price Index" means the Consumer Price Index for all urban consumers published by the Bureau of Labor Statistics of the United States Department of Labor, United States City Average, all items (1982 equals 100). If no such Index is then being published, as of the first day of any

such renewal term, then Landlord shall designate a successor or replacement index of substantially equivalent reliability and objectivity. The Consumer Price Index in effect for any given date shall be deemed to refer to the Consumer Price Index last established before such date.

Section 19.02. NO WAIVER OR RELEASE. No renewal term hereunder shall be evidence of a waiver or release of any default or claim of either party hereto against the other. Any unsatisfied claim of either party hereto against the other under the terms of this Lease during the initial Term or any renewal term shall survive and be deemed to be a similar default or claim under any subsequent renewal term.

ARTICLE XX Representations and Warranties

Section 20.01. REPRESENTATIONS AND WARRANTIES OF LANDLORD. The following representations and warranties are hereby made by Landlord:

- A. POWER AND AUTHORITY. Landlord is a body politic created and formed by the City of Kansas City, Missouri by virtue of the power granted to said City by the laws of the State of Missouri and has the full authority and power to enter into this Lease and to execute and deliver this Lease and to perform and observe all of the terms, conditions and provisions of this Lease to be so observed and performed by it and its said execution and delivery of this Lease has been duly authorized by all necessary action required of it; and
- B. NO CONFLICTS. Nothing herein agreed to by Landlord will conflict with or result in a breach of the terms and provisions or any existing law, rule, regulation, contract, agreement, order of any court or governmental body; and
- C. NO CONTRACT DEFAULTS. Landlord is not in default under any contract or agreement to which it is a party and which materially and adversely affects its ability to enter into and perform its obligations hereunder; and
- D. NO LITIGATION. There are no claims, suits or other proceedings threatened or pending against Landlord which would materially and adversely affect its ability to enter into and perform its obligations hereunder.

Section 20.02. REPRESENTATIONS AND WARRANTIES OF TENANT. The following representations and warranties are hereby made by Tenant:

- A. POWER AND AUTHORITY. Tenant is a corporation duly organized and validly existing and in good standing under the laws of the State of Delaware and is qualified to do business in the State of Missouri and has the full

authority and power to enter into this Lease and to execute and deliver this Lease and to perform and observe all the terms, conditions and provisions hereof to be so observed and performed by it and its execution and delivery of this Lease has been duly authorized by all necessary corporate action on its part. (A copy of the Resolution of its Board of Directors so authorizing the same is attached hereto identified as Exhibit C.); and

- B. NO CONFLICTS. Nothing herein agreed to by Tenant will conflict with or result in a breach of the terms and provisions of any existing law, rule, regulation, contract, agreement, order of any court or governmental body; and
- C. FINANCIAL CONDITION. Tenant is solvent and is not a party to any assignment for the benefit of its creditors or any bankruptcy proceedings, and the transaction contemplated herein shall not cause it to become insolvent or not be able to pay its debts as the same become due; and
- D. NO CONTRACT DEFAULTS. Tenant is not in default under the terms of any contract or agreement to which it is a party and which materially and adversely affects its ability to perform its obligations hereunder; and
- E. NO LITIGATION. There are no claims, suits or other proceedings threatened or pending against Tenant which materially and adversely affect its ability to perform its obligations hereunder.

ARTICLE XXI

Invalidity of Particular Provisions

If any term or provision of this Lease or the application thereof to any person or entity or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term or provision to persons, entities or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Lease shall be valid and enforceable to the fullest extent permitted by law.

ARTICLE XXII

Notices

Any and all notices, demands, requests, submissions, approvals, consents, disapprovals, objections, offers or other communications or documents required to be given, delivered or served or which may be given, delivered or served under or by the terms and provisions of this Lease or pursuant to law or otherwise, shall be in writing and shall be deemed to have been duly given, delivered or served; (i) if and when personally delivered or sent

by verifiable facsimile, on the date so delivered or sent, or (ii) three (3) days after being mailed by registered or certified mail, postage prepaid, or (iii) one (1) day after the giving of same to an overnight courier delivery service if sent by a recognized overnight courier delivery service, costs prepaid, addressed if to the Tenant, at:

Hilton Hotels Corporation
3930 Howard Hughes Parkway, Fifth Floor
Las Vegas, NV 89109
Attention: President
Phone: (702) 699-5000
Fax: (702) 699-5179

With copies to:

Hilton Hotels Corporation
9936 Civic Center Drive
Beverly Hills, California 90209-5567
Attention: General Counsel
Phone: (310) 278-4321
Fax: (310) 205-4613

and

Jerome D. Riffel
Lathrop & Norquist
2345 Grand Avenue, Suite 2500
Kansas City, Missouri 64108
Phone: (816) 842-0820
Fax: (816) 421-0500

or to such other address as Tenant may from time to time designate by written notice to Landlord, or if to Landlord at:

Port Authority of Kansas City, Missouri
10 Petticoat Lane, Suite 250
Kansas City, Missouri 64106
Attention: Executive Director
Phone: (816) 221-0636
Fax: (816) 221-0189

With a copy to:

Phillip A. Kusnetzky
McDowell, Rice & Smith, a Professional Corporation
120 West 12th Street
Suite 1300
Kansas City, Missouri 64105
Phone: (816) 221-5400
Fax: (816) 474-7304

or to such other address as Landlord may from time to time designate by written notice to Tenant.

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ARTICLE XXIII Rent Abatement/Claim for Damages

Except as in this Lease otherwise expressly prohibited Tenant shall have such rights as are provided by Missouri law for abatement, diminution or reduction of Rent or charges or other claim for damages based on any material inconvenience, discomfort, interruption of business, loss or damage to improvements to the Demised Premises or personal property thereon, or otherwise.

ARTICLE XXIV Estoppel Certificates

Section 24.01. TENANT'S CERTIFICATE. Tenant shall, without charge, at any time and from time to time, within ten days

after request by Landlord, certify by written instrument, duly executed, acknowledged and delivered to Landlord or any other person, firm, entity or corporation specified by Landlord:

- (a) that this Lease is unmodified and in full force and effect, or, if there have been any modifications, that the same is in full force and effect as modified and stating the modifications;
- (b) whether or not there are then existing any set-offs or defenses against the enforcement of any of the agreements, terms, covenants or conditions hereof and any modifications hereof upon the part of Tenant to be performed or complied with, and, if so, specifying the same;
- (c) the dates, if any, to which the Minimum Net Rent, Percentage Rent and Additional Rent and other charges hereunder have been paid in advance; and
- (d) the date of expiration of the then current term;
- (e) the Rent then payable under this Lease; and
- (f) such other matters as Landlord shall reasonably request.

Section 24.02. LANDLORD'S CERTIFICATE. Landlord shall, without charge, at any time and from time to time, within ten days after request by Tenant, certify by written instrument, duly executed, acknowledged and delivered to Tenant, to the effect that this Lease is unmodified and in full force and effect (or if there shall have been modifications, that the same is in full force and effect as modified and stating the modifications) and the dates to which the Rent has been paid, the date of expiration of the current term, the Rent then payable under this Lease, and stating whether or not, to the best knowledge of the officer executing such certificate on behalf of Landlord, Tenant is in default in performance of any covenant, agreement or condition contained in

this Lease and, if so, specifying each such default of which the person executing such certificate may have actual knowledge and such other matters as Tenant shall reasonably request.

ARTICLE XXV
Miscellaneous

Section 25.01. GOVERNING LAW/VENUE. This Lease shall be governed by and construed in accordance with the internal laws of the State of Missouri. Venue of any action brought pursuant to this Lease or any Exhibit hereto or arising on, out of, under or by reason of or in any way relating to this Lease or the landlord/tenant relationship created hereunder or the obligations arising out of, under, or by reason of the Development Agreement or resulting from any other transaction hereunder or thereunder or concerning the validity, interpretation or enforcement hereof or thereof shall only be brought in (or, if filed in a different venue, shall be transferred to) a State or Federal Court of appropriate jurisdiction located in or having jurisdiction over Jackson County, Missouri. Tenant waives any objection to the jurisdiction of or venue in any such court, consents to transfer of venue to such court and to the service of process issued by such court and agrees that each may be served by any method of process described in the Missouri or Federal Rules of Civil Procedure. Tenant waives any right to claim that any such court is an inconvenient forum or any similar defense.

Section 25.02. CONFLICT AMONG PROVISIONS. In the event of a conflict between or among the terms, covenants, conditions or provisions of this Lease and the Development Agreement or any Exhibit to either of the same, if such conflict relates to performance or payment prior to the Commencement Date (except as to payment of Interim Rent), the provisions of the Development Agreement shall prevail, but if such conflict relates to performance or payment after the Commencement Date (except as to initial construction of improvements), the provisions of this Lease shall prevail. Notwithstanding any statement in the Development Agreement, the Proposal, the Exhibits to the Development Agreement or the Lease, Tenant's total obligations liability with respect to the payment of Minimum Rent and the Riverfront Park Grant shall be a total of Thirty Million Dollars (\$30,000,000.00) during the initial ten (10) year term hereof and includes all grants of monies and Minimum Rent for which Tenant is liable to Landlord or any other party and which payments include all liability of Tenant for the construction of or payment for infrastructure and improvements excluding the Site Improvements as now defined in the Development Agreement and which are fully stated and limited to those Site Improvements listed in Exhibits C and D to the Development Agreement.

Section 25.03. INTEREST RATE. All sums due hereunder as Rent or otherwise and whether due from Tenant to Landlord, or vice-versa, shall bear interest from the date due until paid at a rate equal to 400 basis points (4%) over the rate of one year United

States Treasury obligations existing on the first day of the month during which such sums become due, adjusted upward to reflect any increase in such rate during the time any such sum remains unpaid (the "Interest Rate").

Section 25.04. SPECIAL REPORTS. Tenant agrees to provide to Landlord, or to such parties as Landlord shall as required in connection with and under the terms of the Bond Issuance described in Section 2.14 of this Lease direct, such information as is necessary to allow Landlord to satisfy the requirements of Rule 15c2-12, as amended, of the Securities and Exchange Commission.

ARTICLE XXVI Consent of Landlord and Tenant

Section 26.01. STANDARD. Where any provision of this Lease requires the consent or approval of Landlord or Tenant, each agrees that such consent or approval will not be unreasonably withheld unless otherwise specifically provided for herein.

Section 26.02. OTHER ACTS. Each party agrees to perform any further acts and deliver any additional documents that may be reasonably requested by the other and are necessary to carry out the provisions of this Lease.

ARTICLE XXVII Payments Under Protest

In case of any dispute between Landlord and Tenant with respect to the amount of money payable by Tenant to Landlord under the provisions of this Lease, Tenant shall be privileged to make payment under protest and, in such event, shall be privileged to assert and prosecute a claim or claims for the recovery of the sum, or any part thereof, that shall have been so paid by Tenant under protest.

ARTICLE XXVIII No Oral Modification

All prior understandings and agreements between the parties are merged with this Lease, which together with the Development Agreement and Exhibits to the same, fully and completely set forth the understanding of the parties hereto; and this Lease may not be changed or terminated orally or in any manner other than by an agreement in writing and signed by the party against whom enforcement of the change or termination is sought.

ARTICLE XXIX Covenants to Bind and Benefit Respective Parties

The covenants and agreements herein contained shall bind and inure to the benefit of Landlord, its successors and assigns, and Tenant, and its permitted successors and assigns.

ARTICLE XXX
Captions, Table of Contents and Exhibits

Section 30.01. CAPTIONS. The captions, titles and headings of this Lease are for convenience and reference only and in no way define, limit or describe the scope or intent of this Lease or any part thereof or in any way affect this Lease.

Section 30.02. TABLE OF CONTENTS. The table of contents preceding this Lease but under the same cover is for the purpose of convenience and reference only and is not to be deemed or construed in any way as part of this Lease, nor as supplemental thereto or amendatory thereof.

Section 30.03. EXHIBITS. Each of the Exhibits hereto are by this reference made a part hereof as though fully set out herein.

IN WITNESS WHEREOF, Landlord and Tenant have caused this Lease to be executed by their duly authorized officers and their respective corporate seals to be hereunto affixed.

LANDLORD:

THE PORT AUTHORITY OF KANSAS CITY, MISSOURI

By: /s/ Elbert Anderson
Name: Elbert Anderson
Title: Chairman

TENANT:

HILTON HOTELS CORPORATION, a Delaware Corporation

By: /s/ F.M. O'Brien
Name: F.M. O'Brien
Title: Executive Vice President

ACKNOWLEDGMENTS

STATE OF MISSOURI)
) SS
COUNTY OF JACKSON)

On this 21 day of August, 1995, before me appeared Elbert Anderson, to me personally known, who being by me duly sworn, did say that he is the Chairman of The Port Authority of Kansas City, Missouri, a public Corporation, and said Elbert Anderson acknowledged execution of the foregoing instrument to be the free act and deed of said port Authority.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal the day and year last above written.

/s/ Sarah L Bradley
Notary Public

My Commission Expires:

4/28/96

SARAH L BRADLEY
NOTARY PUBLIC STATE OF MISSOURI
PLATTE COUNTY
MY COMMISSION EXP. APR. 28, 1996

STATE OF NEVADA)
) SS
COUNTY OF CLARK)

On this 16th day of August, 1995, before me appeared F.M. O'Brien, to me personally known, who being by me duly sworn, did say that he/she is the Executive Vice President of Hilton Hotels Corporation, a Delaware Corporation, and said F.M. O'Brien acknowledged execution of the foregoing instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto subscribed my name affixed my official seal the day and year last above written.

/s/ Theresa A. Hoff
Notary Public

My Commission Expires:

6/7/97



NOTARY PUBLIC
STATE OF NEVADA
County of Clark
THERESA A. HOFF
My Appointment Expires June 7, 1997

FIRST AMENDMENT
TO
AMENDED AND RESTATED LEASE AGREEMENT

THIS FIRST AMENDMENT ("First Amendment") to Amended and Restated Lease Agreement is made and entered into by and between The Port Authority of Kansas City, Missouri (the "Landlord") and Hilton Hotels Corporation, a Delaware Corporation (the "Tenant") as of the 31st day of October, 1995.

RECITALS

The following recitals are a material part of this First Amendment:

a. On or about the 21st day of August, 1995, Landlord and Tenant entered into that certain Amended and Restated Lease Agreement (the "Lease"), a copy of the recorded memorandum of which is attached hereto and by this reference made a part hereof, as though fully set out herein.

b. The parties hereto have determined that the Lease should be amended in part.

NOW, THEREFORE, for and in consideration of the sum of Ten and No/100 Dollars (\$10.00), to each of them paid by the other, and other good and valuable consideration, the receipt, adequacy and sufficiency of which is hereby acknowledged by each of them, the parties hereto do hereby covenant and agree as follows:

1. In Section 1.02.(b), the initial word and number, "Twelve (12)" shall be stricken and in lieu thereof are hereby substituted, "Ten (10)".
 2. In Section 2.11, after the initial word, "Rent" the words, "and grant payments", are hereby added.
 3. In Section 2.14, at the end of the existing text thereof, a new sentence stating, "Landlord further acknowledges and understands that Tenant's debt to Landlord hereunder is unsecured.", is hereby added.
 4. In Section 4.01, the word, "Tenant" in the fourth line thereof, shall be stricken and in lieu thereof, the word, "Landlord" is hereby substituted.
 5. In Section 16.03, beginning in the tenth line of the indented paragraph thereof, the words, "on the earliest redemption date to occur after termination of this Lease" shall be stricken and in lieu thereof, the following is hereby substituted, "provided further, such minimum Landlord's share shall not exceed an amount of monies sufficient to establish an escrow of United States Treasury obligations, which on the date of deposit thereof into the escrow,
-

would produce, with interest earnings thereon, an amount sufficient to pay, as the same become due, the total principal and interest thereafter payable on the then outstanding Bonds."

6. In Section 16.04, in the third line thereof, after the words, "such event" the words, "all payment of rent, Riverfront Park Grant and additional rent shall continue in the same amount as before the taking, and" are hereby added.
7. Except as changed, modified or amended hereinabove, all provisions, terms and conditions of the Lease shall remain unchanged modified or amended and in full force and effect.

IN WITNESS WHEREOF, Landlord and Tenant have caused this First Amendment to be executed by their duly authorized officers and their respective corporate seals to be hereunto affixed.

LANDLORD:

THE PORT AUTHORITY OF KANSAS CITY, MISSOURI

By: /s/ Elbert Anderson
Name: Elbert Anderson
Title: Chairman

TENANT:

HILTON HOTELS CORPORATION, a Delaware Corporation

By: /s/ F. Michael O'Brien
Name: F. Michael O'Brien
Title: Executive Vice President

ACKNOWLEDGMENTS

STATE OF MISSOURI)
)
COUNTY OF JACKSON) SS

On this 30 day of November, 1995, before me appeared Elbert Anderson, to me personally known, who being by me duly sworn, did say that he is the Chairman of The Port Authority of Kansas City, Missouri, a public Corporation, and said Elbert Anderson acknowledged execution of the foregoing instrument to be the free act and deed of said Port Authority.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal the day and year last above written.

/s/ Jacqueline M Bullard
Notary Public

My Commission Expires:

June 22 1998

JACQUELINE M BULLARD
NOTARY PUBLIC STATE OF MISSOURI
CASS COUNTY
MY COMMISSION EXP. JUNE 22, 1998

STATE OF NEVADA)
)
COUNTY OF CLARK) SS

On this 20 day of November, 1995, before me appeared E. Michael O'Brien, to me personally known, who being by me duly sworn, did say that he/she is the Executive Vice President of Hilton Hotels Corporation, a Delaware Corporation, and said E. Michael O'Brien acknowledged execution of the foregoing instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal the day and year last above written.

/s/ Danielle I. Love-Metz
Notary Public

My Commission Expires:

May 25, 1999



Notary Public-State of Nevada
COUNTY OF CLARK
DANIELLE I. LOVE-METZ
My Commission Expires
May 25, 1999

SECOND AMENDMENT TO AMENDED AND RESTATED LEASE AGREEMENT

This Second Amendment ("Second Amendment") to Amended and Restated Lease Agreement is made and entered into by and between The Port Authority of Kansas City, Missouri (the "Landlord") and Hilton Hotels Corporation, a Delaware corporation (the "Tenant"), as of the 10 day of June, 1996.

RECITALS:

A. Landlord and Tenant are parties to that certain Amended and Restated Lease Agreement dated as of August 21, 1995, as amended by that First Amendment to Amended and Restated Lease Agreement dated as of October 31, 1995 (collectively, the "Lease"), a copy of the recorded memorandum of which is attached hereto and by this reference made a part hereof, as though fully set out herein.

B. In order to comply with certain regulatory requirements relating to the licensing of the gaming facilities to be operated by Tenant as provided in the Lease, the parties mutually desire to amend the Lease in part.

NOW, THEREFORE, for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the parties hereby covenant and agree as follows:

1. Modifications to Lease. The Lease is hereby amended and modified to provide that (i) the "Riverboat Gaming Facility", as such term is defined in the Lease, together with its contents and including trade fixtures and personality and (ii) the Site Improvements, as such term is defined in the Lease, shall, until termination of the Lease, be the absolute property of Tenant. Without limiting the generality of the foregoing, the Lease is hereby specifically amended and modified as follows:

(a) The first paragraph of Section 1.01 of the Lease is hereby amended and modified in its entirety as follows:

Section 1.01. DEMISE. Landlord hereby subleases to Tenant and Tenant hereby leases from Landlord, the real property described in Exhibit B attached hereto (the "Demised Premises"), specifically excluding, however, all buildings and improvements to be constructed in accordance with the Development Agreement ("Site Improvements"), and the Riverboat Gaming Facility, which shall be

the absolute property of the Tenant until termination of this Agreement, and specifically including the following easements and appurtenances:

- (b) The first sentence of Section 4.01 is amended and modified in its entirety as follows:

The Riverboat Gaming Facility, together with its contents and including trade fixtures and personalty shall, until the termination of this Agreement, be the absolute property of Tenant.

- (c) Section 9.02 of the Lease is hereby amended and modified in its entirety as follows:

Section 9.02. TITLE TO TENANT'S PERSONALTY AND FIXTURES. Title to Tenant's Personalty and Fixtures, including, without limitation, the Riverboat Gaming Facility, shall until the termination of this Lease be that of Tenant.

- (d) Section 9.01 is amended and modified to add the following sentence at the end of such section:

Title to the Site Improvements, any equipment and/or appurtenances thereto and all changes, additions and alterations therein and all renewals and replacements thereof, when made, erected, constructed, installed or placed upon the Demised Premises or the Easements by Tenant, shall, until the termination of this Lease, be that of the Tenant.

2. No Other Modifications. Except as expressly set forth herein, or as necessary to incorporation the modifications herein, all of the terms, conditions, covenants and provisions of this Lease shall remain unmodified and in full force and effect in accordance with their original terms.

3. General. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF, Landlord and Tenant have caused this Second Amendment to be executed by their duly authorized officers as of the day and year first above written.

LANDLORD:

THE PORT AUTHORITY OF KANSAS CITY, MISSOURI

By: /s/ Elbert Anderson
Name: Elbert Anderson
Title: Chairman

TENANT:

HILTON HOTELS CORPORATION, a Delaware corporation

By: /s/ Gerald W. Ricker
Name: Gerald W. Ricker
Title: Vice President – Development

STATE OF MISSOURI)
) ss.
COUNTY OF JACKSON)

On this 10 day of June, 1996, before me appeared Elbert Anderson, to me personally known, who being by me duly sworn did say that he is the Chairman of The Port Authority of Kansas City, Missouri, a public corporation, and said Elbert Anderson acknowledged execution of the foregoing instrument to be the free act and deed of said Port Authority.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal the day and year last above written.

/s/ Jacqueline M Bullard
Notary Public

My Commission Expires:

June 22 1998

JACQUELINE M BULLARD
NOTARY PUBLIC STATE OF MISSOURI
CASS COUNTY
MY COMMISSION EXP. JUNE 22, 1998

STATE OF MISSOURI)
) ss.
COUNTY OF JACKSON)

On this 7th day of June, 1996, before me appeared Gerald W. Ricker, to me personally known, who being by me duly sworn did say that he/she is the Vice Pres. - Develop. of Hilton Hotels Corporation, a Delaware corporation, and said Gerald W. Ricker acknowledged execution of the foregoing instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal the day and year last above written.

/s/ [ILLEGIBLE]
Notary Public

My Commission Expires:

03/11/99

SIGNIFICANT SUBSIDIARIES OF ISLE OF CAPRI CASINOS, INC.

WHOLLY-OWNED SUBSIDIARIES

Black Hawk Holdings, L.L.C.
 Capri Air, Inc.
 Capri Insurance Corporation
 Casino America of Colorado, Inc.
 CCSC Blackhawk, Inc.
 Grand Palais Riverboat, Inc.
 IC Holdings Colorado, Inc.
 IOC-Boonville, Inc.
 IOC-Davenport, Inc.
 IOC-Kansas City, Inc.
 IOC-Lula, Inc.
 IOC-Natchez
 IOC Black Hawk County, Inc.
 IOC Holdings, L.L.C.
 IOC Pittsburgh, Inc.
 IOC Services, L.L.C.
 Isle of Capri Bettendorf, L.C.
 Isle of Capri Black Hawk, L.L.C.
 Isle of Capri Marquette, Inc.
 PPI, Inc.
 Riverboat Corporation of Mississippi
 St. Charles Gaming Company, Inc.
 The Isle Casinos Limited
 IOC Caruthersville, L.L.C.
 IOC Blackhawk Distribution Company, L.L.C.
 Isle of Capri Bahamas Holdings, Inc.

STATE OF INCORPORATION

Colorado
 Mississippi
 Hawaii
 Colorado
 Colorado
 Louisiana
 Colorado
 Nevada
 Iowa
 Missouri
 Mississippi
 Mississippi
 Iowa
 Louisiana
 Pennsylvania
 Delaware
 Iowa
 Colorado
 Iowa
 Florida
 Mississippi
 Louisiana
 United Kingdom
 Missouri
 Colorado
 Mississippi

PARTIALLY-OWNED SUBSIDIARIES

Blue Chip Casinos, Ltd.

United Kingdom

QuickLinks

[Exhibit 21.1](#)

Consent of Independent Registered Public Accounting Firm

We consent to the incorporation by reference in the Registration Statements on Form S-8 (File Nos. 33-61752, 33-80918, 33-86940, 33-93088, 333-50774, 333-50776, 333-77233, 333-111498, 333-123233, 333-123234 and 333-153337), on Form S-4 (File No. 333-115419), and on Form S-3 (File No. 333-115810) of Isle of Capri Casinos, Inc. of our reports dated June 22, 2009, with respect to the consolidated financial statements and schedule of Isle of Capri Casinos, Inc., and the effectiveness of internal control over financial reporting, of Isle of Capri Casinos, Inc. included in this Annual Report (Form 10-K) for the fiscal year ended April 26, 2009.

/s/ Ernst & Young LLP
St. Louis, Missouri
June 22, 2009

QuickLinks

[Exhibit 23.1](#)

CERTIFICATION OF CHIEF EXECUTIVE OFFICER PURSUANT TO RULE 13A-14(A) UNDER THE SECURITIES EXCHANGE ACT OF 1934

I, James B. Perry, Chief Executive Officer of Isle of Capri Casinos, Inc., certify that:

1. I have reviewed this annual report on Form 10-K of Isle of Capri Casinos, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's first fiscal quarter that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent functions):
 - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: /s/ JAMES B.
June 24, PERRY
2009 _____

James B.
Perry
Chief
Executive
Officer

QuickLinks

Exhibit 31.1

CERTIFICATION OF CHIEF FINANCIAL OFFICER PURSUANT TO RULE 13A-14(A) UNDER THE SECURITIES EXCHANGE ACT OF 1934

I, Dale R. Black, Chief Financial Officer of Isle of Capri Casinos, Inc., certify that:

1. I have reviewed this annual report on Form 10-K of Isle of Capri Casinos, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's first fiscal quarter that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent functions):
 - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: /s/ DALE R.
June 24, BLACK
2009

Dale R.
Black
Chief
Financial
Officer

QuickLinks

[Exhibit 31.2](#)

CERTIFICATION OF CHIEF EXECUTIVE OFFICER PURSUANT TO SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002 (18 U.S.C. SECTION 1350)

In connection with the Annual Report of Isle of Capri Casinos, Inc. (the "Company") on Form 10-K for the period ended April 26, 2009, as filed with the Securities and Exchange Commission on the date hereof (the "Annual Report"), I, James B. Perry, Chief Executive Officer of the Company, certify, pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (18 U.S.C. Section 1350), that:

- (1) The Annual Report fully complies with the requirements of Section 13(a) of the Securities Exchange Act of 1934; and
- (2) The information contained in the Annual Report fairly presents, in all material respects, the financial condition and results of operation of the Company.

Date: /s/ JAMES B.
June 24, PERRY
2009 _____
James B.
Perry
Chief
Executive
Officer

QuickLinks

[Exhibit 32.1](#)

CERTIFICATION OF CHIEF FINANCIAL OFFICER PURSUANT TO SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002 (18 U.S.C. SECTION 1350)

In connection with the Annual Report of Isle of Capri Casinos, Inc. (the "Company") on Form 10-K for the period ended April 26, 2009 as filed with the Securities and Exchange Commission on the date hereof (the "Annual Report"), I, Dale R. Black, Chief Financial Officer of the Company, certify, pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (18 U.S.C. Section 1350), that:

- (1) The Annual Report fully complies with the requirements of Section 13(a) of the Securities Exchange Act of 1934; and
- (2) The information contained in the Annual Report fairly presents, in all material respects, the financial condition and results of operation of the Company.

Date: /s/ DALE R.
June 24, BLACK
2009

Dale R.
Black
Chief
Financial
Officer

QuickLinks

Exhibit 32.2